

## **ITALIAN DECREE-LAW no. 237 of 23 December 2016**

Urgent provisions for the protection of savings in the credit sector. (16G00252)

Effective on: 30-10-2025

Chapter I

State guarantees on newly issued liabilities

### **THE PRESIDENT OF THE ITALIAN REPUBLIC**

Having regard to [Articles 77](#) and [87 of the Constitution](#);

Having regard to [Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014](#) establishing a framework for the recovery and resolution of credit institutions and investment firms and amending [Directive 82/891/EEC of the European Council](#), and [Directives 2001/24/EC](#), [2002/47/EC](#), [2004/25/EC](#), [2005/56/EC](#), [2007/36/EC](#), [2011/35/EU](#), [2012/30/EU](#) and [2013/36/EU](#) and [Regulations \(EU\) no. 1093/2010](#) and (EU) no. 648/2012, of the European Parliament and of the Council;

Having regard to [Regulation \(EU\) no. 806/2014 of the European Parliament and of the Council of 15 July 2014](#) establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending [Regulation \(EU\) no. 1093/2010](#);

Having regard to [Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001](#) on the reorganisation and winding-up of credit institutions;

Having regard to [Italian Legislative Decree no. 385 of 1 September 1993](#), “Consolidated Law on Banking and Credit” (Testo Unico delle leggi in materia bancaria e creditizia - T.U.B.) and subsequent modifications and supplements;

Having regard to [Italian Legislative Decree no. 180 of 16 November 2015](#) containing “Implementation of [Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014](#), establishing a framework for the recovery and resolution of credit institutions and investment firms and amending [Directive 82/891/EEC of the European Council](#), and [Directives 2001/24/EC](#), [2002/47/EC](#), [2004/25/EC](#), [2005/56/EC](#), [2007/36/EC](#), [2011/35/EU](#), [2012/30/EU](#) and [2013/36/EU](#) and [Regulations \(EU\) no. 1093/2010](#) and (EU) no. 648/2012 of the European Parliament and of the Council”;

Having regard, in particular, to [Article 18 of Italian Legislative Decree no. 180 of 2015](#);

Having regard to [Italian Legislative Decree no. 181 of 16 November 2015](#) containing “Amendments to [Italian Legislative Decree no. 385 of 1 September 1993](#) and [Italian Legislative Decree no. 58 of 24 February 1998](#), implementing [Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014](#), establishing a framework for the recovery and resolution of credit institutions and investment firms and amending [Directive 82/891/EEC of the European Council](#), and [Directives 2001/24/EC](#), [2002/47/EC](#), [2004/25/EC](#), [2005/56/EC](#), [2007/36/EC](#), [2011/35/EU](#), [2012/30/EU](#) and [2013/36/EU](#) and [Regulations \(EU\) no. 1093/2010](#) and (EU) no. 648/2012 of the European Parliament and of the Council”;

Having regard to the European Commission Communication 2013/C - 216/01 on the application from 1 August 2013 of State aid rules on the support measures in favour of banks in the context of the financial crisis (the “Banking Communication”);

Having regard to the results of stress exercises carried out at national, European Union level or under the Single Supervisory Mechanism;

Having regard to the note of 22 December 2016 by which the Bank of Italy transmitted the asseveration, by independent experts appointed by it, of the value attributable to the instruments and loans subject to mandatory conversion into shares issued by “Banca Monte dei Paschi di Siena S.p.A.” pursuant to Article 22, paragraph 2, of this Decree-Law, indicated in the opinions prepared by experts appointed by the bank itself for the purpose of determining the purchase price of the same instruments and loans as part of the voluntary public tender offer launched on 28 November 2016 by “Banca Monte dei Paschi di Siena S.p.A.” on subordinated instruments issued or guaranteed by the same with the obligation to reinvest the consideration in new shares;

Considering, on the basis of the certification obtained by the Bank of Italy, that the reference value of Tier 1 financial instruments can be placed in the low range of the ranges identified by the experts appointed by “Banca Monte dei Paschi di Siena”, and that for Lower Tier 2 and Upper Tier 2 financial instruments the reference value can be placed around the central value of the ranges indicated by the experts appointed by “Banca Monte dei Paschi di Siena”;

Considering the extraordinary need and urgency to issue provisions aimed at guaranteeing the economic and financial stability of the Country, guaranteeing the availability of public support for capital strengthening measures and ensuring the protection of savings;

Having regard to the deliberation of the Italian Council of Ministers adopted at its meeting on 22 December 2016;

On the proposal of the President of the Council of Ministers and the Minister of Economy and Finance;

## **Emanates**

the following Decree-law:

### **Article 1**

State guarantees on newly issued liabilities

**1.** In order to avoid or remedy a serious disturbance in the economy and to preserve financial stability, the Italian Ministry of Economy and Finance is authorised in accordance with [Article 18 of Italian Legislative Decree no. 180 of 16 November 2015](#) and [Article 18, paragraph 4, letter d\) of Regulation \(EU\) no. 806/2014 of the European Parliament and of the Council of 15 July 2014](#), until 30 June 2017, to grant the State guarantee on the liabilities of Italian banks in accordance with the provisions of this Chapter I, in compliance with the European framework on State aid.

**2.** Italian banks are banks with their registered office in Italy.

**3.** The guarantee may only be granted after the European Commission's positive decision on the granting of the guarantee or, in the case provided for in Article 4, paragraphs 2 and 3, upon individual notification.

**4.** The Italian Minister of Economy and Finance may, by its own decree, extend the period referred to in paragraph 1 and Article 10, paragraph 1 up to a maximum of a further six months, subject to approval by the European Commission.

**5.** In this Chapter I, the term "competent Authority" means the Bank of Italy or the European Central Bank in accordance with the procedures and in the cases provided for by [Regulation \(EU\) no. 1024/2013 of the European Council of 15 October 2013](#).

### **Article 2**

Characteristics of the financial instruments

**1.** The State guarantee may be granted on debt financial instruments issued by Italian banks that jointly have the following characteristics:

- a) they are issued after the entry into force of this decree-law, including in the context of pre-existing issuance programmes, and have a residual maturity of not less than three months and not more than five years or seven years for covered bank bonds referred to in [Article 7-bis of Italian Law no. 130 of 30 April 1999](#);
- b) provide for the repayment of the principal in a single instalment at maturity;
- c) they are at a fixed rate;
- d) they are denominated in euros;
- e) they do not have subordination clauses in the repayment of the principal and in the payment of interest;
- f) they are not structured securities or complex products or incorporate a derivative component.

### **Article 3**

#### Limits

1. The amount of guarantees granted is limited to what is strictly necessary to restore the medium-long term financing capacity of the beneficiary banks.
2. For each bank, the maximum total amount of transactions referred to in this article may not, as a general rule, exceed own funds for supervisory purposes.

### **Article 4**

#### Conditions

1. The granting of the guarantee referred to in Article 1 shall be made on the basis of a case-by-case assessment by the competent Authority:

- a) compliance with the own funds requirements set out in [Article 92 of Regulation \(EU\) no. 575/2013](#)

**((of the European Parliament and of the Council of 26 June 2013))**

, on an individual and consolidated basis, at the date of the last available supervisory report;

- b) the absence of capital shortfalls identified in the context of stress tests conducted at national or European Union Level or under the Single Supervisory Mechanism, or in the context of asset quality reviews or similar exercises conducted by the competent Authority or by the European Banking Authority; capital shortfall means the current or prospective inadequacy of own funds with

respect to the sum of the requirements referred to in letter a) and any specific requirements of a mandatory nature established by the competent Authority.

**2.** The guarantee referred to in Article 1 may also be granted to a bank that does not comply with the requirements referred to in paragraph 1, letter a) or b), but still has positive net equity, if the bank is in urgent need of liquidity support, following the positive decision of the European Commission on the compatibility of the intervention with the European Union State aid framework applicable to measures in support of the liquidity in the context of the financial crisis.

**3.** The guarantee referred to in Article 1 may be granted

**((also))**

in favour of a bank under resolution or a bridge institution referred to in [Italian Legislative Decree no. 180 of 16 November 2015](#). In these cases, no State-guaranteed liquidity support can be provided before the European Commission's positive decision on the individual notification.

**4.** Banks that have recourse to the interventions provided for in this article must carry out their activities in such a way as not to abuse the support received or obtain undue advantages through it, in particular in commercial communications addressed to the public.

## **Article 5**

State guarantee

**1.** The State guarantee is onerous, unconditional, irrevocable and on first demand.

**2.** The guarantee covers the principal and interest.

**3.** For each bank, the nominal value of the financial instruments referred to in Article 2 with a maturity of more than 3 years on which the State guarantee may be provided may not exceed one third of the total nominal value of the financial instruments issued by the bank and guaranteed by the State pursuant to Article 1.

4. Under no circumstances may liabilities that can be counted in own funds for supervisory purposes be secured by a State guarantee.

## Article 6

Consideration for the State guarantee

1. The economic costs borne by the banks benefiting from the guarantee are determined on a case-by-case basis on the basis of the risk assessment of each transaction as follows:

a) for liabilities with an original maturity of at least twelve months, a fee equal to the sum of the following shall be applied:

1) a basic fee of 0.40 percentage points; and

2) a risk-based fee equal to the product of 0.40 percentage points for a risk metric compounded as follows: half of the ratio of the median spreads on the bank's or parent company's five-year senior Credit Default Swap (CDS) contracts over the three years ending in the month preceding the date of issue of the collateral to the median of the 5-year iTraxx Europe Senior Financial Index over the same period by three years, plus half of the ratio between the median spreads on 5-year senior CDS contracts of all EU Member States and the median spread on 5-year senior CDS contracts of the Italian State over the same three-year period;

b) for covered bank bonds referred to in [Article 7-bis of Italian Law no. 130 of 30 April 1999](#), the Committee,

**((referred to in number 2))**

) of letter a) shall be taken into account for half;

c) for liabilities with an original maturity of less than twelve months, a fee equal to the sum of the following shall be applied:

1) a basic fee of 0.50 percentage points; and

2) a risk-based fee equal to 0.20 percentage points in the case of banks with a senior unsecured debt rating of A+ or A and equivalent, 0.30 percentage points in the case of banks rated A- or equivalent, 0.40 percentage points for banks rated below A- or unrated.

2. For banks for which CDS contracts are not traded or in any case no representative data are available, the median of the spreads referred to in paragraph 1, letter a),

**((number 2),)**

is calculated as follows:

a) for banks that have a rating issued by recognised external credit assessment agencies (ECAIs): the median spread on five-year CDS contracts in the three years ending in the month preceding the date of issuance of the guarantee recorded for a sample of large banks, defined by the European Commission, established in euro area countries belonging to the same rating class as senior unsecured debt;

b) for unrated banks: the median of the spreads on CDS contracts recorded over the same period for a sample of large banks, defined by the European Commission, established in euro area countries and belonging to the lowest rating category available.

**3.** In the event of discrepancies in the rating evaluations, the rating relevant for the calculation of the fee is the highest one.

In the event that there are more than three rating evaluations available, the relevant rating is the second highest.

**4.** The ratings referred to in this article shall be those assigned at the time the guarantee is granted.

**5.** The fee is applied on an annual basis to the nominal amount of the financial instruments issued by the bank for which the guarantee is granted. The fees payable by the banks concerned shall be paid, in deferred quarterly instalments, in accordance with the procedures laid down in Article 24,

***((paragraph 3))***

. The relevant receipts shall be sent by the bank concerned to the Italian Ministry of Economy and Finance, Department of the Treasury, hereinafter referred to as: "Department of the Treasury".

**6.** The Italian Minister for the Economy and Finance, by decree adopted after consulting the Bank of Italy, may, taking into account market conditions, vary the calculation criteria and the amount of the fees referred to in this article in accordance with the decisions of the European Commission. Changes do not affect existing transactions.

**Article 7**

Procedure

**1.** Applications for admission to the guarantee shall be submitted by the banks concerned on the same day to the Bank of Italy and the Department of the

Treasury in a manner that ensures the speed and confidentiality of the communication.

**2.** The request shall be submitted according to a uniform form prepared by the Department of the Treasury within fifteen days of the entry into force of this decree-law, published on the website of the Department of the Treasury and the Bank of Italy, indicating, among other things, the bank's liquidity needs, including prospective liquidity requirements, the guarantee transactions to which the bank requests admission and those to which it may have already been admitted or for which it has already applied for admission.

**3.** The Bank of Italy shall promptly notify the Department of the Treasury, usually within 3 days of the submission of the request:

a) the assessments of the competent authority on the existence of the conditions referred to in Article 4, paragraph 1;

b) in the case of a positive assessment of condition a):

1) the adequacy of the conditions and volumes of the liquidity intervention requested, in light of the size of the bank and its capitalisation;

2) the amount of own funds for supervisory purposes;

3) the amount of the guarantee;

4) the amount of the commission due in accordance with Article 6.

**4.** On the basis of the information communicated by the Bank of Italy, the Department of the Treasury shall act promptly and normally within five days of receipt of the Bank of Italy's communication regarding the request submitted by the bank. The Department of the Treasury communicates the decision to the requesting bank and to the Bank of Italy, in a manner that ensures the speed and confidentiality of the communication.

**5.**

***((In the cases provided for in Article 4, paragraphs 2 and 3))***

, or if the nominal value of the financial instruments on which the guarantee is granted is greater than € 500 million and is greater than 5% of the total liabilities of the requesting bank, the bank is required to submit, within two months of the granting of the guarantee, a restructuring plan to confirm the bank's long-term viability and funding capacity without recourse to public support. Within two months of the granting of the guarantee, the plan is submitted to the European Commission for the purpose of assessing the

compatibility of the legal framework with the European Union State aid framework.

***((In any case, the submission of the restructuring plan is not required when the secured liabilities are repaid within two months of the granting of the guarantee.))***

**6.** In the cases indicated in Article 4, paragraphs 2 and 3, and without prejudice to the provisions of paragraph 7, the requesting bank may not, for as long as it benefits from the guarantee:

a) distribute dividends;

b) make discretionary payments on AT1 instruments pursuant to [Regulation \(EU\) no. 575 of the European Parliament and of the Council of 26 June 2013](#) or grandfathered by the relevant transitional arrangements;

c) repurchase its Common Equity Tier 1 instruments or instruments referred to in letter b), including following the exercise of call options, without prior authorisation from the European Commission;

d) acquire new shareholdings, without prejudice to acquisitions compatible with European State aid rules, including acquisitions for the purpose of debt recovery and temporary financial assistance to companies in difficulty.

**((**

***7. In the cases provided for in Article 4, paragraphs 2 and 3, the guarantee may be granted, by way of derogation from the minimum term limit of three months provided for in Article 2, paragraph 1, letter a), on financial instruments with a maturity not exceeding two months.***

**))**

## **Article 8**

Enforcement of the guarantee on newly issued liabilities

**1.** A bank that is unable to fulfil the guaranteed obligation shall submit a reasoned request for activation of the guarantee to the Department of the Treasury and the Bank of Italy, attaching the relevant documentation and indicating the financial instruments or contractual obligations for which it requests activation and the related amounts due. The request is submitted, as a rule, at least thirty days before the maturity of the secured liability, except in cases of justified urgency.

**2.** The Department of the Treasury, having ascertained, on the basis of the Bank of Italy's assessments, the validity of the request, shall promptly and in any case

pay the amount due by the bank no later than the day before the maturity of the obligation.

**3.** Following the activation of the State guarantee, the bank is required to repay the sums paid by the State to the Treasury plus interest at the legal rate until the day of repayment. The bank is also required to submit, no later than two months from the request referred to in paragraph 1, a restructuring plan to be submitted to the European Commission for the purpose of assessing the compatibility of the measure with the European Union regulatory framework on State aid.

***((3-bis. The sums paid by the Treasury to credit institutions to honour the guarantee provided for by this decree shall be bound by destination and are held remote by other creditors of the bank for any other reason))***

**4.** This Article shall be without prejudice to the right of the holders of secured liabilities and the holders of real security rights over them to enforce the State guarantee pursuant to Article 5, paragraph 1).

## **Article 9**

***((Reports to the European Commission and to the Parliament))***

**1.** The Italian Ministry of Economy and Finance, on the basis of the information provided by the Bank of Italy, shall submit to the European Commission

***((and to the Parliament))***

a quarterly report on the functioning of the scheme, providing information on each issue of guaranteed instruments under this Chapter, the amount of the fee actually applied in respect of each issue, the characteristics of the unsecured debt financial instruments issued by the beneficiary banks.

## **Article 10**

Emergency liquidity disbursement

**1.** The Italian Minister of Economy and Finance may issue, within six months of the entry into force of this decree-law, the State guarantee to supplement the collateral, or its realisable value, allocated by Italian banks as a guarantee for loans granted by the Bank of Italy to deal with serious liquidity crises (emergency liquidity provision

***((-ELA))***

), in accordance with the schemes provided by the European Central Bank.

**2.** The State guarantee is irrevocable and assisted by the benefit of prior enforcement by the Bank of Italy of the guarantees allocated by the bank to access ELA financing.

**3.** The guarantee referred to in paragraph 1 may be issued for emergency liquidity provision operations in favour of banks that comply, according to the assessment of the competent Authority, with the conditions set out in Article 4, paragraphs 1, 2 and 3, of this decree.

**4.** The bank receiving the intervention referred to in paragraph 1 shall submit a restructuring plan to confirm its long-term viability and borrowing capacity without recourse to public support, in particular to limit the reliance on the liquidity provided by the Central Bank.

**5.** Unless otherwise provided for in this article, Articles 1, 3, 4, 5, paragraph 2, 6, 7, 8, paragraphs 3 and 4 shall apply to the State guarantee referred to in paragraph 1, insofar as they are compatible.

## **Article 11**

Enforcement of the State guarantee  
on emergency liquidity provision

**1.** In the event of non-compliance by the bank with its payment obligations towards the Bank of Italy under the ELA loan agreement, the Bank of Italy, following the enforcement of the collateral allocated to cover the loan and within the limits of the guaranteed amount, submits a request for activation of the State guarantee to the Department of the Treasury, attaching the documentation relating to the enforcement of the collateral and indicating the residual amounts due.

**2.** The Department of the Treasury, having ascertained the validity of the request, shall promptly and, in any case within thirty days, pay the amount due by the bank.

## **Article 12**

Implementing provisions

1. By decree of the Italian Minister of Economy and Finance, after consulting the Bank of Italy,

***((may be adopted))***

measures implementing this Chapter I.

Chapter II

Capital strengthening measures

### **Article 13**

State intervention

1. This Chapter II regulates the methods and conditions of State intervention in support of Italian banks and banking groups.

2. In order to avoid or remedy a serious disturbance in the economy and preserve financial stability, pursuant to [Article 18 of Italian Legislative Decree no. 180 of 16 November 2015](#) and [Article 18, paragraph 4, letter d\) of Regulation \(EU\) no. 806/2014 of the European Parliament and of the Council of 15 July 2014](#), the Italian Ministry of Economy and Finance (hereinafter the “Ministry”) is authorised to subscribe or acquire, by 31 December 2017, also by way of derogation from the State accounting rules, shares issued by Italian banks, whether or not belonging to a banking group, or by Italian parent companies of banking groups (hereinafter the “Issuer”), in accordance with the terms and conditions set out in this Chapter II.

3. In this Chapter II, the term competent Authority means the Bank of Italy or the European Central Bank in accordance with the procedures and in the cases provided for by [Regulation \(EU\) no. 1024 of the European Council of 15 October 2013](#).

### **Article 14**

Capital strengthening programme

1. State intervention pursuant to Article 13 may be requested by an Issuer that - in relation to a stress test based on an adverse scenario conducted at national or European Union level or under the Single Supervisory Mechanism - needs to strengthen its assets.

**2.** In order to be eligible for State intervention pursuant to Article 13, the Issuer must have previously submitted to the competent Authority a capital strengthening programme (the “Programme”), indicating the extent of the capital requirements necessary, the measures that the Issuer intends to take to achieve the strengthening, as well as the deadline for the implementation of the Programme.

**3.** The competent Authority shall assess the adequacy of the Programme to achieve, including on a consolidated basis, the capital strengthening objective referred to in paragraph 1 and shall inform the Issuer and the Ministry thereof.

**4.** The Issuer shall inform the competent Authority as soon as possible of the results of the measures adopted. The competent Authority shall inform the Ministry thereof.

**5.** If the implementation of the Programme is insufficient to achieve the capital strengthening objective referred to in paragraph 1, the Issuer may submit a request for State intervention in accordance with the procedure established by Article 15. Such a request may be submitted by the Issuer as early as the outcome of the assessment of the Programme carried out pursuant to paragraph 3, when the competent Authority has deemed that the same is not sufficient to achieve the capital strengthening objectives, or during the implementation of the Programme itself, if this is found to be inadequate to ensure the achievement of the capital strengthening objectives.

## **Article 15**

### Request for State intervention

**1.** The Issuer that intends to resort to State intervention shall send to the Ministry and to the competent Authority, and to the Bank of Italy if it is not the competent Authority, a request containing:

a) an indication of the amount of the subscription of the Issuer’s shares requested from the Ministry;

b) an indication of the amount of accounting equity, individual or consolidated, as applicable, at the date of the application and the amount of regulatory capital requirements that remain, if any, taking into account the implementation of the Programme;

c) an indication of the instruments and loans referred to in Article 22, paragraph 2, and their book value, accompanied by an assessment, prepared by an

independent expert, of the economic value attributable to them for the purpose of determining the conversion rate, in the event of business continuity;

d) an estimate report, prepared by an independent expert, of the actual value of the Issuer's assets and liabilities without considering any form of public support and assuming that the Issuer is subject to liquidation on the date of submission of the request for State intervention, as well as what in this case would be paid pro rata to the holders of the instruments and loans referred to in Article 22, paragraph 2;

e) the statement of commitments referred to in Article 17;

f) the restructuring plan (the "Plan"), prepared in accordance with the European Union State aid framework applicable to bank recapitalisation measures in the context of the financial crisis.

**2.** The Bank of Italy acquires the certification, by independent experts appointed by it, at the expense of the Issuer:

a) the economic value resulting from the valuation transmitted by the Issuer pursuant to paragraph 1, letter c);

b) the estimate transmitted pursuant to paragraph 1, letter d);

c) the assessment referred to in Article 18, paragraph 4.

**3.** The independent experts referred to in paragraph 1, letters c) and d), and paragraph 2, must not have in progress nor must have they had in the last

**((three years))**

business, professional or financial relationships with the Issuer such as to compromise its independence.

## **Article 16**

Assessments of the competent Authority

**1.** Within sixty days of receipt of the request referred to in Article 15, the competent Authority shall notify the Ministry and the Issuer of the Issuer's regulatory capital requirements.

**2.** The competent Authority may ask the Issuer for clarifications and additions and carry out investigations. In such cases, the term referred to in paragraph 1 shall be suspended.

## **Article 17**

## Compliance with State aid guidelines

**1.** The request referred to in Article 15 shall be accompanied by the declaration by which the Issuer undertakes, from the time of the application and until the subscription of the shares by the Ministry has been completed, the commitments provided for in paragraph 47 of the European Commission's Communication on the banking sector.

**2.** Without prejudice to the powers of the competent authority, the subscription may be subject, in accordance with the decision of the European Commission on the compatibility of the intervention with the European Union legal framework on State aid applicable to bank recapitalisation measures in the context of the financial crisis, under the following conditions:

a) revocation or replacement of the executive directors and the general manager of the Issuer;

b) limitation of the overall remuneration of the members of the board of directors and senior management of the Issuer.

***((For appointments conferred as of 1 January 2023, the annual economic treatment may not in any case exceed that determined pursuant to [Article 23-ter of Italian Decree-Law no. 201 of 6 December 2011](#), converted, with amendments, by [Italian Law no. 214 of 22 December 2011](#)))***

## Article 18

### Implementation of the intervention

**1.** Following the communication pursuant to Article 16 by the competent Authority, the Plan and any subsequent amendments thereto shall be notified to the European Commission.

**2.** Following the positive decision of the European Commission on the compatibility of the intervention with the European Union State aid framework applicable to the recapitalisation measures of banks in the context of the financial crisis, a decree of the Italian Minister of Economy and Finance, to be published in the Italian Official Journal, adopted on the proposal of the Bank of Italy, provides for the application of the cost-sharing measures in accordance with what is provided for in Article 22.

**3.** By decree of the Italian Minister for the Economy and Finance, adopted after consulting the Bank of Italy, it shall also provide:

- a) where necessary, the increase in the Issuer's capital to service the subscription of the shares by the Ministry, also derogating from [Article 2441 of the Italian Civil Code](#) and provided that it has not been resolved by the Issuer;
- b) the subscription or purchase price as well as any other element necessary for the management of the subscription or purchase, including the subsequent phases;
- c) the subscription or purchase of the Issuer's shares.

**((4. For the purposes of the determinations provided for in paragraph 2, at the request of the Ministry and within the deadline indicated by the Ministry, the Issuer shall transmit to the Ministry and the Bank of Italy the indication of the value of the shares necessary to calculate, in accordance with the Annex, the price of the shares to be attributed to the holders of the instruments and loans indicated in Article 22, paragraph 2. The value of the shares shall be calculated by an entity that meets the independence requirements provided for in Article 15, paragraph 3, according to the following criteria:**

**a) in the event that the bank is not listed, the value is calculated on the basis of the company's assets, its income prospects, the trend in the ratio between market value and book value of listed banks and taking into account the losses associated with any extraordinary transactions, including those for the sale of assets, to be completed in connection with the intervention of the State referred to in this Chapter;**

**b) in the event that the bank is listed, the value of the shares shall be determined on the basis of the trend in the prices of the thirty trading days prior to the date indicated by the Ministry, taking into account the date of the expected issuance of the decree referred to in paragraph 3; in the event of suspension of the share price for periods exceeding fifteen days in the reference period, the value of the shares is the lower of the average reference price of the last thirty market days in which the share was traded and that determined pursuant to letter a) ))**

**5.** The decrees referred to in paragraphs 2 and 3 shall be adopted if:

- a) the Issuer does not find itself in one of the situations referred to in Article 17, paragraph 2, letters a), b), c), d) or e) of [Italian Legislative Decree no. 180 of 16 November 2015, or referred to in Article 18, paragraph 4, letters a\), b\)](#) or c) of [Regulation \(EU\) no. 806/2014](#); and

b) the conditions for reduction or conversion pursuant to Chapter II of Title IV of [Italian Legislative Decree no. 180 of 16 November 2015](#) or those provided for in [Article 21, paragraph 1 of Regulation \(EU\) no. 806/2014](#) are not met.

**6.** The situations and conditions indicated in paragraph 5 are assumed not to exist when there is no assessment to that effect by the competent Authority.

**7.** The decrees referred to in paragraphs 2 and 3 shall be subject to prior control of legality by the Court of Auditors and shall be published in the Official Journal of the Italian Republic.

**8.** The Board of Directors or the Management Board shall adapt the Issuer's Articles of Association accordingly. [Article 2443, paragraph 3 of the Italian Civil Code](#) shall apply.

## **Article 19**

Characteristics of the shares

**1.** Without prejudice to the provisions of paragraph 2, the Ministry subscribes to newly issued shares. The shares issued by the Issuer for subscription by the Ministry are ordinary shares that confer the right to vote that is neither limited nor conditional in the ordinary Shareholders' meeting and in the extraordinary Shareholders' meeting, not privileged in the distribution of profits nor subordinated in the attribution of losses.

**2.**

***((Within one hundred and twenty days))***

from the date of publication of the decree provided for in Article 18, paragraph 2, the Ministry, in the event of a transaction between the Issuer or a company of its group and the shareholders who have become shareholders following the application of the cost-sharing measures referred to in Article 22, paragraph 2, may purchase the shares resulting from the application of such measures, if the following conditions are cumulatively met:

a) the transaction is intended to put an end to or prevent a dispute concerning the marketing of the instruments involved in the application of the cost-sharing measures referred to in Article 22, paragraph 2), limited to those for which there was an obligation to publish a prospectus for the offer and with the exclusion of those purchased by eligible counterparties pursuant to [Article 6, paragraph 2-quarter, letter d\) of Italian Legislative Decree no. 58 of 24 February 1998](#), or

professional clients pursuant to Article 6, paragraphs 2-quinquies and 2-sexies, of the same legislative decree, other than the Issuer or companies of its group, in the absence of provision of investment services or activities by the Issuer or companies of its group;

a-bis) the instruments being converted were subscribed or purchased before 1 January 2016; in the case of free purchase, reference is made to the time when the instrument was purchased by the predecessor;

b) the shareholders are not eligible counterparties pursuant to [Article 6, paragraph 2-quarter, letter d\) of Italian Legislative Decree no. 58 of 24 February 1998](#), nor professional clients pursuant to Article 6, paragraphs 2-quinquies and 2-sexies, of the same legislative decree;

c) the transaction provides that the Issuer purchases from the shareholders in the name and on behalf of the Ministry the shares deriving from the application of the cost-sharing measures referred to in Article 22, paragraph 2, and that the latter receive from the Issuer, as consideration, non-subordinated bonds issued at par by the Issuer or by companies of its group, for a nominal value equal to the price paid by the Ministry pursuant to letter d); these bonds will have a maturity comparable to the residual life of the instruments and bonds subject to conversion and yield in line with that of the non-subordinated bonds issued by the Issuer with similar characteristics recorded on the secondary market in the period between the date of publication of the decree referred to in Article 18, paragraph 2, and the date of purchase of the shares pursuant to this paragraph;

d) the price for the purchase by the Ministry of the shares deriving from the application of the cost-sharing measures is paid to the Issuer in relation to the bonds assigned by the latter to shareholders; the purchase price of those shares shall be the lower of the price used to determine the number of shares to be allocated at the time of conversion pursuant to Article 22, paragraph 5, letter d) and the price determining a consideration corresponding to the consideration paid by the shareholder for the subscription or purchase of the instruments subject to conversion pursuant to Article 22, paragraph 2, or, in the case of free purchase, the consideration paid by the predecessor

e) the transaction provides for the waiver of the shareholder to assert any other claim relating to the marketing of the financial instruments converted, in application of the cost-sharing measures referred to in Article 22, paragraph 2, in the shares purchased by the Ministry pursuant to this paragraph.

**3.** The shares of the Issuer offered for subscription to the Ministry comply with the conditions set out in [Article 31 of Regulation \(EU\) of the European Parliament and of the Council no. 575 of 26 June 2013](#).

4. The price of the shares offered for subscription to the Ministry is determined according to the criteria and methodology indicated in the annex.

5. The costs of subscription and purchase of the shares by the Ministry are entirely borne by the Issuer.

## **Article 20**

Effects of the subscription

1. The acquisition of shareholdings in the Issuer by the Ministry, following the subscription or purchase of shares arranged pursuant to this Chapter, shall not apply:

a) [Articles 2527 and 2528 of the Italian Civil Code](#);

b) [Articles 106, paragraph 1 and 109, paragraph 1 of Italian Legislative Decree no. 58 of 24 February 1998](#);

c) any limits on share ownership provided for by legislative or statutory provisions, including the limits provided for in Article 30 of the Consolidated Banking Act.

## **Article 21**

Banks constituted in cooperative form

1. In the meetings of banks constituted in cooperative form, in which the Ministry exercises the right to vote relating to the shares subscribed following the transactions provided for by this decree-law, [Articles 2351, paragraph 1, 2368, 2369 and 2372 of the Italian Civil Code](#) shall apply, instead of Articles 2538, paragraphs 2 and 5, and 2539 of the [Italian Civil Code, as well as Articles 30, paragraph 1](#) and

***((31, paragraph 1, of the consolidated text referred to in Italian Legislative Decree no. 385 of 1 September 1993))***

. The shares of share capital required for the constitution and for the resolutions of the Shareholders' meeting are those provided for by law and [Article 137, paragraph 4, of Italian Legislative Decree no. 58 of 24 February 1998](#) does not apply.

***((1-bis. In Article 37-bis, paragraph 1-bis, of the Consolidated Text referred to in Italian Legislative Decree no. 385 of 1 September 1993, after the words: "in the same autonomous province" the following are inserted: "and that in***

***any case they do not have more than two branches located in neighbouring provinces”))***

## **Article 22**

Burden-sharing among creditors

**1.** Without prejudice to the provisions of paragraph 7, the subscription of the Issuer’s shares pursuant to Article 18 shall be carried out by the Italian Minister of Economy and Finance after the application of the cost-sharing measures in accordance with the provisions of this article, with the aim of limiting the use of public funds.

**2.** The decree referred to in Article 18, paragraph 2, provides for the following cost-sharing measures and the increase in the Issuer’s capital to service the measures themselves:

a) conversion, in whole or in part, into newly issued ordinary shares eligible for Common Equity Tier 1 capital of the Issuer having the characteristics set out in Article 19, paragraph 1 of Additional Tier 1 instruments pursuant to [Regulation \(EU\) of the European Parliament and of the Council no. 575 of 26 June 2013](#) (Additional Tier 1), including instruments qualified as Additional Tier 1 instruments pursuant to the grandfathering clause of the aforementioned Regulation and its implementing provisions, as well as other liabilities of the Issuer with an equal or higher degree of subordination in the insolvency hierarchy;

b) where the measure referred to in letter a) is not sufficient, conversion, in whole or in part, into newly issued common shares eligible for Common Equity Tier 1 capital of the Issuer having the characteristics set out in Article 19, paragraph 1 of instruments and loans eligible as Tier 2 items pursuant to [Regulation \(EU\) no. 575 of the European Parliament and of the Council of 26 June 2013](#) (Tier 2), including instruments and loans that qualify as Tier 2 items pursuant to the grandfathering clause of the aforementioned Regulation and its implementing provisions, as well as other instruments and loans with the same degree of subordination in the insolvency hierarchy;

c) if the measure referred to in letter b) is not sufficient, conversion, in whole or in part, into newly issued ordinary shares that can be counted in the Common Equity Tier 1 capital of the Issuer having the characteristics indicated in Article 19, paragraph 1, of the instruments and loans, other than those indicated in letters a) and b), whose right to repayment of the principal is contractually subject to the satisfaction of the rights of all the non-subordinated creditors of the Issuer.

c-bis) when necessary to ensure the effectiveness of the cost-sharing measures, the decree referred to in Article 18, paragraph 2, may provide, instead of conversion, for the zeroing of the nominal value of the instruments and loans referred to in the previous letters and the allocation of newly issued ordinary shares that can be counted in the Common Equity Tier 1 capital of the Issuer having the characteristics indicated in Article 19, paragraph 1.

**2-bis.** The higher or lower values deriving from the application of paragraph 2 to the issuing banks referred to in Article 13, paragraph 2, of this decree, do not contribute to the formation of the total income for income tax purposes and to the determination of the value of net production.

***((2-ter. In order to ensure equal treatment in the allocation of costs, if the Issuer has submitted or has formally communicated its intention to submit, following the verification of the access requirements, the request for State intervention pursuant to Article 15, the deadline for the maturity of the liabilities referred to in paragraph 2 of this article issued by the same falling within six months after the submission of the application or formal communication of the intention to submit it shall be extended until the end of the same six-month period. The extension does not entail non-compliance pursuant to the law or contractual clauses, including those relating to other relationships to which the Issuer or a component of the banking group to which it belongs. Paragraph 10 of this article shall apply to the extension, insofar as it is compatible. During the extension, the liabilities shall bear interest in accordance with the applicable contractual provisions))***

**3.** The adoption of the measures provided for in paragraph 2 shall result in the ineffectiveness of the guarantees issued by the Issuer if the following conditions are cumulatively met:

- a) the guarantee relates to liabilities issued by parties directly or indirectly controlled by the Issuer;
- b) the secured liabilities referred to in letter a) have been issued as part of a unitary financing transaction of the Issuer which includes a loan to the Issuer by an entity controlled by the Issuer;
- c) the Issuer's liabilities arising from the loan granted to it referred to in letter b) shall be subject to the measure referred to in paragraph 2.

**4.** The adoption of the measures provided for in paragraph 2 shall also result in the ineffectiveness of the contractual or other clauses entered into by the Issuer concerning its own shares or capital instruments referred to in paragraph 2 and

relating to the property rights due to them, which prevent or limit their full eligibility in Common Equity Tier 1 capital.

**5.** The measures referred to in paragraph 2 shall be provided for:

a) in respect of all the liabilities referred to in paragraph 2, where possible according to the law applicable to them, according to the hierarchy applicable in the insolvency proceedings;

b) in a uniform manner vis-à-vis all creditors of the Issuer who hold liabilities subject to the measures of paragraph 2 under the law applicable to them and belonging to the same category, except as provided for in paragraph 7, and in proportion to the nominal value of the respective financial instruments or receivables;

c) to such an extent as to ensure that no holder of the instruments and loans referred to in paragraph 2 receives, taking into account the increase in assets achieved by the Issuer as a result of State intervention, worse treatment than that which he would receive in the event of liquidation of the Issuer, assuming that the liquidation takes place without public support;

d) determining the number of shares to be allocated at the time of conversion on the basis of the methodology indicated in the Annex, letter A, without prejudice to compliance with the provisions of letters a), b) and c);

e) provided that the Issuer has converted any convertible financial instruments issued into shares or other Common Equity Tier 1 instruments, in compliance with the conditions set out in the relevant contracts; to this end, the Issuer includes in the request referred to in Article 15 the certification that it has converted any convertible financial instruments issued into shares or other Common Equity Tier 1 instruments, in compliance with the conditions set out in the relevant contracts.

**6.** The condition referred to in paragraph 5, letter c) shall be met when, taking into account the estimate provided for in Article 15, paragraph 1, letter d), the value of the shares assigned for conversion is at least equal to what would be paid to the holders of the additional capital instruments, Tier 2 items and other subordinated instruments and loans referred to in paragraph 2 in the event that the Issuer were to be wound up on the date of submission of the request for State intervention.

**7.** The measures provided for in this article shall not be applied, in whole or in part, when the European Commission, in the decision referred to in Article 18, paragraph 2, has determined that their adoption may jeopardise financial

stability or lead to disproportionate results. In the event of partial exclusion from the application of the measures provided for in this article, the decree referred to in Article 18, paragraph 2 shall indicate the instruments or classes of instruments excluded, subject to compliance with the criteria referred to in paragraph 5, letters a), c) and d). The assessment of the applicability of the exclusion cases indicated in this paragraph shall be carried out, for each intervention, by the European Commission.

**8.** [Article 53](#) and [Article 58, paragraph 2, of Italian Legislative Decree no. 180 of 16 November 2015](#) shall apply to the acquisition of shareholdings in the Issuer as a result of the measures provided for pursuant to paragraph 2, and [Articles 2359-bis, 2359-ter, 2359-quinquies](#) and [2360 of the Italian Civil Code](#) and [Article 121 of Italian Legislative Decree no. 58 of 24 February 1998](#) shall not apply.

**9.** Judicial protection against the measures indicated in this article is governed by [Article 95 of Italian Legislative Decree no. 180 of 16 November 2015](#). In the event of violation of the condition indicated in paragraph 5, letter c), [Article 89, paragraph 1, of Italian Legislative Decree no. 180 of 16 November 2015](#) shall apply; the related indemnity is paid by the Issuer through the allocation of new shares.

**10.** In the event of the adoption of a measure referred to in this article or in article 18, [Article 65 of Italian Legislative Decree no. 180 of 16 November 2015](#) shall apply to contracts entered into by the Issuer, by a component of the banking group to which it belongs or by an entity controlled by it. In any case, the agreements contained in contracts entered into with the Issuer or with a component of the group to which it belongs, which, in the event of the adoption of a measure referred to in this article or an event directly related to the application of such measures, provide for the termination of the contract or give the policyholder the right to withdraw from the contract, to suspend, modify or offset its obligations, to enforce a guarantee, to immediately demand the agreed performance with forfeiture of the term or to claim a penalty from the Issuer or another member of the group to which it belongs. With regard to contracts entered into by the Issuer or by a component of the group to which it belongs, the adoption of a measure referred to in this article or the occurrence of an event directly related to the application of such measures does not in itself constitute a breach of a contractual obligation, an event triggering the enforcement of the guarantee pursuant to [Article 1, paragraph 1, letter i\) of Italian Legislative Decree no. 170 of 21 May 2004](#), an insolvency proceeding pursuant to [Article 1, paragraph 1, letter p\) of Italian Legislative Decree no. 210 of 12 April 2001](#), or an event that determines the forfeiture of the term pursuant to

[Article 1186 of the Italian Civil Code.](#)

**11.** The provisions contained in this article are of mandatory application pursuant to [Article 9 of Regulation \(EC\) no. 593 of the European Parliament and of the Council of 17 June 2008](#) and [Article 17 of Italian Law no. 218 of 31 May 1995](#). They constitute reorganisation measures pursuant to [Directive \(EC\) of the European Parliament and of the Council no. 24 of 4 April 2001](#) and apply and produce their effects in the other EU States in accordance with the provisions of Title IV, Section III-bis, of the Consolidated Banking Act.

## **Article 23**

Final provisions

**1.** By decree of the Italian Minister of Economy and Finance, after consulting the Bank of Italy, provisions for the implementation of this Chapter II may be laid down.

**2.** For the purposes of structuring the interventions envisaged by this Chapter II, as well as the management of any disputes, the Ministry may avail itself, at the expense of the Issuer, of experts in financial, accounting and legal matters, chosen from among entities that do not have or have not had in recent years,

**((three years))**

business, professional or financial relationships with the Issuer such as to compromise its independence.

**3.** At the time of the first application of this Chapter, if Banca Monte dei Paschi S.p.A. submits the request referred to in Article 15, paragraph 1, the economic value

**((...))**

to be allocated to liabilities

**((subject to cost-sharing measures pursuant to Article 22, paragraph 2,))**

for the purposes referred to in paragraph 5, letter d) of the same article, it is determined as follows:

- a) Issue XS0122238115: 75% of the nominal value;
- b) Issue XS0121342827: 75% of the nominal value;
- c) Issue XS0131739236: 75% of the nominal value;

- d) Issue XS0180906439: 18% of the nominal value;
- e) Issue IT0004352586: 100% of the nominal value;
- f) Issue XS0236480322: 100% of the nominal value;
- g) Issue XS0238916620: 100% of the nominal value;
- h) Issue XS0391999801: 100% of the nominal value;
- i) Issue XS0415922730: 100% of the nominal value;
- l) Issue XS0503326083: 100% of the nominal value;
- m) Issue XS0540544912: 100% of the nominal value.

**4.** In consideration of the provisions of paragraph 3, any request by Banca Monte dei Paschi di Siena does not contain the assessment referred to in Article 15, paragraph 1, letter c).

#### **Article 23-bis**

**(( (Report to the Parliament).))**

**((**

**1. The Italian Minister for the Economy and Finance shall submit to the Parliament a quarterly report on the applications submitted and the interventions carried out, indicating the amount of resources disbursed and the purposes of expenditure, pursuant to this Chapter.**

**2. The report shall indicate, with reference to the interventions carried out in the four-month period, the information relating to the risk profile and creditworthiness, referring to the date on which the loans were granted, of the entities against which the Issuer has receivables, classified as non-performing, for an amount equal to or greater than 1 per cent of shareholders' equity))**

Chapter III

Financial provisions

#### **Article 24**

Financial resources

**1.** The Italian Ministry of Economy and Finance's estimates set up a Fund with an endowment of € 20 billion for the year 2017, intended to cover the costs deriving from the subscription and purchase of shares carried out for capital strengthening (pursuant to Chapter II) and from the guarantees granted by the

State on newly issued liabilities and on the provision of emergency liquidity (pursuant to Chapter I) in favour of Italian banks and banking groups.

**((2))**

. Decrees of the Italian Minister of Economy and Finance shall provide for the allocation of the Fund's endowment among the purposes referred to in paragraph 1 and any subsequent remodulation in relation to actual needs.

**((3))**

. The amounts intended to cover the guarantees granted pursuant to Chapter I shall be paid into a special current account of the Central Treasury.

**((4))**

. The consideration for the guarantees granted and those deriving from any subsequent sale of the shares shall be paid into the State budget to be reallocated to the Fund referred to in paragraph 1. The resources of the Fund no longer necessary for the purposes referred to in paragraph 1, quantified by decree of the Italian Minister of Economy and Finance, shall be paid into the State budget to be reallocated to the Fund for the amortisation of government bonds.

**Article 24-bis**

(General provisions on financial, insurance and pension education)

**1.** The provisions of this article provide for measures and interventions aimed at developing financial, insurance and social security education. These provisions ensure the effectiveness, efficiency and systematic nature of the actions of public and private entities in the field of financial, insurance and social security education and recognise the importance of financial education as a tool for consumer protection and for a more informed use of the financial tools and services offered by the market.

**2.** In accordance with the Organisation for Economic Cooperation and Development (OECD) definition, financial, insurance and pension education, for the purposes of this article, means the process by which individuals improve their understanding of financial instruments and products and develop the skills necessary to acquire a greater awareness of the financial risks and opportunities.

**3.** The Italian Ministry of Economy and Finance, in agreement with the

***((Italian Ministry of Education and Merit))***

, adopts, according to the resources available under current legislation, within six months of the date of entry into force of the law converting this decree, the programme for a “National Strategy for Financial, Insurance and Social Security Education”. The National Strategy conforms to the following principles:

a) to systematically organise the coordination of public entities and, possibly on a voluntary basis, of private entities already active in the field, or of those that will be activated by the programme, ensuring that interventions are continuous over time, promoting the exchange of information between entities and the dissemination of related experiences, skills and good practices; and defining the ways in which financial, insurance and social security education initiatives can enter into synergy and connect with the activities of the national education system;

b) to define national policies on communication and dissemination of information aimed at promoting financial, insurance and social security education;

c) to provide for the possibility of entering into agreements to promote training interventions with associations representing production categories, professional associations, consumer associations, non-profit organisations and universities, also with the participation of local authorities.

**4.** The outline of the programme referred to in paragraph 3 shall be transmitted to the Parliament for the purpose of expressing the opinions of the Parliamentary Committees responsible for the subject matter and for the financial aspects, which shall be provided within thirty days from the date of transmission. If the Government does not intend to comply with the parliamentary opinions, it shall re-transmit the outline of the programme to the Parliament with its observations and any amendments, accompanied by the necessary additional information and reasons. The final opinions of the Committees responsible for the subject matter and for the financial profiles shall be expressed within thirty days from the date of the new transmission. After this deadline, the programme may still be adopted.

**5.** The Government shall submit annually to the Parliament a Report on the State of Implementation of the National Strategy for Financial, Insurance and Social Security Education by 31 July. The report may contain any proposals for amending and updating the programme referred to in paragraph 3, to be adopted with the same procedures provided for in paragraph 4.

**6.** For the implementation of the National Strategy referred to in paragraph 3, by decree to be adopted within three months of the date of entry into force of the law converting this decree, the Italian Minister of Economy and Finance, in agreement with the

***((Italian Minister of Education and Merit))***

and with the Italian Minister of Economic Development, establishes the Committee on the Planning and Coordination of Financial Education Activities, with the task of promoting and planning financial awareness and education initiatives.

**7.** The establishment of the Committee referred to in paragraph 6 shall not result in charges to the public finance, except as provided for in paragraph 9.

**8.** The Committee, composed of eleven members, is chaired by a director, appointed by the Minister of Economy and Finance, in agreement with the Minister of Education, University and Research, chosen from among personalities with proven skills and experience in the sector. The members other than the Director, also chosen from among personalities with proven skills and experience in the sector, are appointed: one by the Minister of Economy and Finance, one by the Minister of Education, University and Research, one by the Minister of Economic Development, one by the Minister of Labour and Social Policies, one by Bank of Italy, one by the National Commission for Companies and the Stock Exchange (CONSOB), one by the Institute for the Supervision of Insurance (IVASS), one by the Pension Funds Supervisory Commission (COVIP), one by the National Council of Consumers and Users, one by the Supervisory Body and Maintenance of the Single Register of Financial Advisors (OCF). The members of the Committee, as well as the Director, remain in office for three years and the appointment can be renewed only once.

**9.** The Committee operates through periodic meetings, providing, where necessary, for the establishment of specific research groups in which academics and experts in the field may participate. Participating in the Committee does not grant a right to emolument, compensation or attendance fees. This is without prejudice to the payment to the members of the Committee of reimbursement of travel and accommodation expenses incurred for participation in the periodic meetings referred to in the first sentence, from the funds provided for in paragraph 11.

**10.** The Committee has the task of identifying measurable objectives, programmes and actions to be implemented, enhancing the experiences, skills and initiatives gained by the entities active on the national territory and encouraging collaboration between public and private entities.

***((Starting from the year 2023, the Committee, by its own resolution, approves the three-year plan of activities, in line with the programme referred to in paragraph 3))***

***((10-bis. The Italian Ministry of Education and Merit, after consulting the Committee, shall sign specific agreements with the Bank of Italy, the National Commission for Companies and the Stock Exchange, the Institute for the Supervision of Insurance and the Commission for the Supervision of Pension Funds in order to promote the culture of financial, insurance and social security education, while respecting school autonomy and within the limits of human resources; available under current legislation))***

**11.** The costs deriving from the Committee's activities, up to a limit of € 1 million per year starting from 2017, are met by a corresponding reduction in the allocation of the special current account fund entered, for the purposes of the 2017-2019 three-year budget, as part of the "Reserve and special funds" programme of the "Funds to be distributed" mission of the Ministry of Economy and Finance's estimates for the year 2017, for this purpose partially using the provision relating to the same Ministry. The Italian Minister of Economy and Finance is authorised to make the necessary budget changes by means of his own decrees.

## Chapter IV

### Urgent measures for the banking sector

#### **Article 25**

##### Contributions to the National Resolution Fund

**1.** The additional contributions referred to in [Article 1, paragraph 848, of Italian Law no. 208 of 28 December 2015](#) shall be paid to cover any obligation, loss, cost and any charge or liability borne by the National Resolution Fund in any way arising from or connected with the execution of the Resolution Measures and with the need to ensure their effectiveness, also as a result of any changes made to them.

**2.** The Bank of Italy can determine

**((, in one or more instalments, on the basis of the call for contributions made in 2023 by the Single Resolution Fund, until any obligations, losses, costs and any charges or liabilities referred to in paragraph 1,))**

the amount of additional contributions to be paid to the National Resolution Fund for the purposes referred to in paragraph 1, net of the contributions called by the Single Resolution Fund pursuant to [Articles 70](#) and [71 of Regulation \(EU\) no. 806/2014](#)

**((...))**

and may establish that such contributions are due within a period of time defined by the same, not exceeding five years; the Bank of Italy shall annually communicate the amount due for each year of the aforementioned period.

**3.**

**((For each call by the National Resolution Fund, the amount of the additional contributions shall be payable by the banks having their registered office in Italy and by the Italian branches of non-EU banks considered by the Single Resolution Board, on the reference date identified by the Board, for the purposes of the annual contribution to the Single Resolution Fund in the last call of the annual contribution on the date of determination referred to in paragraph 2; breakdown of the additional contributions are those established by the Single Resolution Board for contributions to the Single Resolution Fund for the same last call))**

## **Article 26**

Amendments to [Article 3 of Italian Legislative Decree no. 170 of 21 May 2004](#)

**1.** In Article 3 of Italian Legislative Decree no. 170 of

**((21 May))**

2004, the following amendments are made:

a) the second sentence of paragraph 1-bis shall be replaced by the following: “Without prejudice to the provisions of the following paragraph, for the purposes of enforceability against third parties and against the assigned debtor or debtor of the pledged claim, the requirements for notification to the debtor or acceptance by the debtor provided for by the [Italian Civil Code](#) shall remain unaffected.”;

b) the following shall be inserted after paragraph 1-bis:

“1-ter. If, in order to satisfy, even indirectly, liquidity needs, the Bank of Italy carries out financing or other transactions that are guaranteed by pledge or assignment of credit, the guarantee shall have effect vis-à-vis third parties from the time of its provision, pursuant to Article 1, paragraph 1, letter q), and Article 2, paragraph 1, letter b), and by way of derogation from [Articles 1265, 2800 and 2914 no. 2\) of the Italian Civil Code](#). Notwithstanding [Articles 1248 and 2805 of the Italian Civil Code](#), the assigned debtor or the debtor of the pledged credit may not set off against the Bank of Italy any receivables due against the assignor or pledger, regardless of whether such receivables arose, acquired or became due before the provision of the guarantee in favour of the Bank of Italy or after the same. For the purposes of the other legal purposes, for the purposes of the enforceability of the guarantee against the assigned debtor or the debtor of the pledged credit, the notification or acceptance requirements provided for by the [Italian Civil Code](#)

1-quater remain unaffected. When the guarantees indicated in paragraph 1-ter consist of mortgage credits, the annotation provided for in Article 2843 of the Italian Civil Code is not required. Article 67, paragraph 4 of Royal Decree no. 267 of 16 March 1942 shall apply to the operations of the Bank of Italy referred to in paragraph 1-ter.’

#### **Article 26-bis**

**(( Amendments to [Italian Decree-Law no. 59 of 2016](#)).))**

***(1. In [Article 8, paragraph 1, letter a\) of Italian Decree-Law no. 59 of 3 May 2016](#), converted, with amendments, by [Italian Law no. 119 of 30 June 2016](#), the following words, lastly, are added: “; the spouse, the cohabitant more uxorio, the relatives within the second degree in possession of the aforementioned financial instruments, following a transfer by deed between living persons.***

***2. In [Article 9, paragraph 2 of Italian Decree-Law no. 59 of 3 May 2016](#), converted with amendments by [Law no. 119 of 30 June 2016, letter b\) is repealed.](#)***

***3. In [Article 9, paragraph 6 of Italian Decree-Law no. 59 of 3 May 2016](#), converted, with amendments, by [Italian Law No 119 of 30 June 2016](#), the words: “within six months of the date of entry into force of the law converting this decree” shall be replaced by the following: “by 31 May 2017” and the following sentences, lastly, are added: “The assistance service to investors in filling out and submitting the application for the payment of lump sum compensation is free of charge. Banks may not require the investor who applies for the submission of the application to pay, nor may they add charges or commissions, in any form”.***

4. To [Article 11 of Italian Decree-Law no. 59 of 3 May 2016](#), converted, with amendments, by [Italian Law no. 119 of 30 June 2016](#) the following changes are made:

a) in paragraph 1, the second sentence is replaced by the following: “The option shall be exercised with effect from 1 January 2016 with the first payment referred to in paragraph 7, it shall be irrevocable and shall entail the application of the rules referred to in this article from the financial year in progress as at 31 December 2016 until the financial year in progress as at 31 December 2030, with the obligation to pay an annual fee”;

b) in paragraph 2, the word: “annually” is replaced by the following: “for each financial year of application of the discipline” and after the words: “and taxes paid” the following are added: “as at the end of the previous year”;

by the following: “The payment of the fee is made for each financial year within the deadline for the payment of the balance of income taxes relating to the previous tax period; for the first period of application of the rules referred to in this article, the payment shall instead be made, in any case, by 31 July 2016 without the application of Article 17, paragraph 2, of the regulation referred to in [Italian Presidential Decree no. 435 of 7 December 2001](#)”))

Art. 26-ter

(( (Temporary irrelevance of the limits referred to in the second sentence of [paragraph 1 of Article 84 of Italian Presidential Decree no. 917 of 1986](#), for the purposes of the right to transform assets for deferred tax assets).))

((

1. For the tax periods for which [Article 16, paragraph 4 of Italian Decree-Law no. 83 of 27 June 2015](#), converted, with amendments, by [Italian Law no. 132 of 6 August 2015](#), for the purposes of carrying forward losses, for the persons referred to in Article 33 of the Consolidated Text referred to in [Italian Legislative Decree no. 385 of 1 September 1993](#), the limits referred to in the second sentence of paragraph 1 of Article 84 of the Consolidated Income Tax Act, referred to in [Italian Presidential Decree no. 917 of 22 December 1986](#), do not apply to the portion of loss deriving from the deduction of the negative income components referred to in [paragraph 55 of Article 2 of Italian Decree-Law no. 225 of 29 December 2010](#), converted, with amendments, by [Italian Law no. 10 of 26 February 2011](#); for these purposes, the loss is presumed to derive primarily from the deduction of these negative components.

**2. The cost deriving from the implementation of paragraph 1, estimated at € 14.7 million for the year 2017, € 10.9 million for the year 2018, € 21.3 million for the year 2019, € 29.7 million for the year 2020, € 25.3 million for the year 2021, € 21.5 million for the year 2022, € 19.6 million for the year 2023 and € 5.5 million for the year 2024, is provided for by reducing the allocation of the special current account fund entered, for the purposes of the 2017-2019 three-year budget, as part of the “Reserve and special funds” programme of the “Funds to be distributed” mission of the Ministry of Economy and Finance’s estimates for the year 2017, for this purpose partially using the provision relating to the same Ministry for € 14.7 million for the year 2017, € 10.9 million for the year 2018 and € 29.7 million starting from the year 2019. The Italian Minister of Economy and Finance is authorised to make the necessary budget changes by means of his own decrees))**

## **Article 27**

Financial provisions

**1.** For the year 2017, the maximum level of the net balance to be financed of the State budget and the maximum level of recourse to the financial, accrual and cash markets, referred to in Annex 1, [Article 1, paragraph 1, of Italian Law no. 232 of 11 December 2016](#), as well as the maximum amount of issuance of public securities, in Italy and abroad, referred to in [Article 3, paragraph 2, of Italian Law no. 232 of 11 December 2016](#), are respectively increased by € 20 billion.

**2.** The cost deriving from the higher net issuances of public securities referred to in paragraph 1, in the maximum amount of € 60 million for 2017, € 232 million for 2018 and € 290 million from 2019, which will increase to € 148 million for 2017, € 359 million for 2018 and € 426 million from 2019, for the purpose of offsetting the effects in terms of net debt, the following are provided:

a) € 14 million for 2017, € 51 million for 2018, € 129 million for 2019 and € 100 million per year from 2020, through the corresponding use of the Fund for structural economic policy interventions, referred to in [Article 10, paragraph 5 of Italian Decree-Law no. 282 of 29 November 2004](#), converted, with amendments, by [Italian Law no. 307 of 27 December 2004](#);

b) € 30 million for 2017, € 100 million for each of the years 2018 and 2019, and € 129 million per year from 2020, by means of a corresponding reduction in the Fund referred to in [Article 1, paragraph 200 of Law no. 190 of 23 December 2014](#);

c) € 16 million for 2017, € 81 million for 2018 and € 61 million per year from 2019, by means of a corresponding reduction in the allocation of the special current account fund entered for the purposes of the 2017-2019 three-year budget

under the “Reserve and special funds” programme of the “Funds to be distributed” mission of the Ministry of Economy and Finance’s estimates

**((for the year 2017))**

for this purpose partially using the provision relating to the same Ministry for € 10 million for the year 2017, € 70 million for the year 2018 and € 50 million per year starting from the year 2019, the provision relating to the Ministry of the Environment and the Protection of Land and Sea for € 2 million for the year 2017 and for € 4 million per year starting from the year 2018, the provision relating to the Ministry of Infrastructure and Transport of € 2 million for the year 2017 and € 3 million per year starting from 2018 and the provision relating to the Ministry of Health for € 2 million for the year 2017 and € 4 million per year starting from the year 2018;

d) as regards € 88 million for 2017, € 127 million for 2018 and € 136 million per year from 2019, through the corresponding use of the Fund for the compensation of financial effects not provided for by current legislation resulting from the updating of multi-year contributions, referred to in [Article 6, paragraph 2, of Italian Decree-Law no. 154 of 7 October 2008](#), converted, with amendments, by [Italian Law no. 189 of 4 December 2008](#).

**3.** The resources referred to in paragraph 2, letters b) and c) above shall be entered in the fund referred to in [Article 10, paragraph 5\) of Italian Decree-Law no. 282 of 29 November 2004](#), converted, with amendments, by [Italian Law no. 307 of 27 December 2004](#) and, together with those referred to in letters a) and d), shall be set aside and made unavailable in terms of accruals and cash.

**4.** By decrees of the Italian Minister of Economy and Finance, to be communicated to Parliament, on the basis of the actual issuances of public debt securities carried out in 2017 in relation to the provisions of this decree-law, the appropriations set aside under

**((paragraph 3))**

to an extent corresponding to the financing of higher interest expenses, or to the de-allocation of resources that are not expected to be used for the purposes referred to in this decree.

**5.** For the purposes of the immediate implementation of the provisions of this decree, where necessary, the Italian Ministry of Economy and Finance may order the use of cash advances, the regularisation of which shall take place promptly with the issuance of payment orders on the relevant items of

expenditure.

## **Article 28**

Entry into force

**1.** This decree shall enter into force on the same day of its publication in the Official Journal of the Italian Republic and shall be submitted to Parliament for conversion into law.

This Decree shall bear the State seal and thus be included in the Italian Republic's Official Collection of Legislative Acts. Anyone in charge shall be required to abide by this collection and ensure that it is complied with.

Palermo, 23 December 2016

MATTARELLA

Gentiloni Silveri, Italian Prime Minister

Padoan, Italian Minister of Economy and Finance

Seen, the Italian Minister of Justice Orlando

**((Annex))**

### **((CALCULATION METHODS**

***In case of application of the burden-sharing measure***

***provided for in Article 22, paragraph 2***

***A) Number of shares allocated to holders of the additional Tier 1 capital, Tier 2 items and other instruments and subordinated loans***

***The number of ordinary shares allocated to holders of Additional Tier 1 (AT1), Tier 2 and other subordinated instruments and loans (T2), in the case of conversion is determined according to the following formulas:***

**VSAT1**

**NAZNSAT1 = -----**

**PAZN**

**VET2**

**NAZNET2 = ----**

**PAZN**

**NAZV \* PAZV - (NAZV \* PAZV + VCSAT1 + VCET2 + AUCAPMEF) \* K**

**PAZN = -----**

**NAZV**

**where:**

**NAZNSAT1 = number of new ordinary shares assigned to holders of**

**AT1 instruments**

**NAZNET2 = number of new ordinary shares assigned to holders of**

**T2 tools**

**VSAT1 = value of the AT1 instruments to be converted determined in accordance with the provisions of Article 15, paragraphs 1, letter c), and 2, letter a), of the Decree-Law**

**VET2 = value of the instruments T2 to be converted determined according to the provisions of Article 15, paragraphs 1, letter c), and 2, letter**

**a) of the Decree-Law**

**VCSAT1 = carrying amount of AT1 instruments to be converted provided**

**by the Issuer pursuant to Article 15, paragraph 1, letter c), of the**

**Decree-Law**

**VCET2 = carrying amount of the instruments T2 to be converted provided**

**by the Issuer pursuant to Article 15, paragraph 1, letter c), of the**

**Decree-Law**

**AUCAPMEF = capital increase subscribed by the Ministry**

**PAZN = newly issued ordinary share price**

**NAZV = number of common shares outstanding before**

**of the capital increase provided for in Article 18 of the Decree-Law PAZV = value of the ordinary shares determined in accordance with the provided for by Articles 15, paragraph 2, letter c) and 18, paragraph 4**

**K = 15%**

**If, as a result of the application of the discount factor, the value of**

**PAZN is negative, PAZN 50%\*PAZV**

**B) Number of newly issued shares allocated to the Ministry**

**The number of newly issued ordinary shares allocated to the**

**The Minimum and the subscription price are determined according to the following formulas:**

**AUCAPMEF**

**NAZNMEF = -----**

**PAZNMEF**

**PAZNMEF=PAZN\*(1-W)**

**where:**

**NAZNMEF = number of new ordinary shares assigned to the Ministry**

**PAZNMEF = price of newly issued shares subscribed by the**

**Ministry**

**W=25%**

***In the event of non-application of the cost-sharing measure***

***provided for in Article 22, paragraph 2 (see Article 22, paragraph 7 of the Decree-Law)***

***Number and subscription price of newly issued shares***

***attributed to the Ministry***

***The number of newly issued ordinary shares allocated to the***

***Ministry and the subscription price are determined according to the following formulas:***

***AUCAPMEF***  
***NAZNMEF = -----***  
***PAZNMEF***

***NAZV \* PAZV - (NAZV \* PAZV + AUCAPMEF) \* Z***  
***PAZNMEF = ----- \* (1-W)***  
***NAZV***

***where:***

***NAZNMEF = number of new ordinary shares assigned to the Ministry***

***AUCAPMEF = capital increase subscribed by the Ministry***

***PAZNMEF = price of newly issued ordinary shares assigned to the Ministry***

***NAZV = number of common shares outstanding before***

***of the capital increase provided for in Article 18 of the Decree-Law***

***PAZV = value of ordinary shares determined in accordance with the provisions of Articles 15, paragraph 2, letter c) and 18, paragraph 4***

***Z = 15%***

***W = 25%***

***If, as a result of the application of the discount factor Z, the value of PAZNMEF is negative, PAZNMEF = 37.5%\*PAZV))***