

Italian urgent measures to preserve financial stability and to protect depositors: main elements of the law decree

The Ministry of the Economy and Finance (MEF) is authorized to subscribe or guarantee the subscription of capital raisings decided by banks incorporated in Italy, whose capital adequacy has been ascertained to be insufficient by the Bank of Italy.

The subscription is conditional on the existence of a three-year stabilization and reinforcement plan by the requesting bank.

Capital is subscribed on the basis of an assessment by the Bank of Italy of the following elements:

- a) the adequacy of the bank's stabilisation and reinforcement plan accompanying the decision to increase capital;
- b) the dividend policies approved by the assembly of bank shareholders for the period of duration of the guarantee.

Since the subscription date and for the entire holding period, the equity held by the MEF will be in the form of preferred shares, senior to all other categories of shares in the distribution of dividends.

So long as the MEF continues to hold equity in the bank, any substantial change in the bank's stabilisation and reinforcement plan is subject to the prior approval of MEF in consultation with the Bank of Italy.

In the event of a severe crisis, including a liquidity crisis, which may threaten the stability of the financial sector, a bank could be put under conservatorship. The MEF is authorized to subscribe capital increases also of those banks put under conservatorship.

The process of collateral-based lending to banks by the Bank of Italy will be simplified, by removing the obligation to notify the debtor of the asset used as collateral.

The MEF may issue a guarantee for any refinancing provided by the Bank of Italy to banks incorporated in Italy as well as to Italian branches of foreign banks to address serious liquidity crisis ("emergency liquidity assistance").

In addition to the existing deposit guarantee system, the MEF may issue a State guarantee in favour of individual depositor in Italian incorporated banks for a period of 36 months from the date of enactment of the current law decree.

Within 30 days from the publication of this law decree, the MEF, after consulting the Bank of Italy, shall issue general administrative acts establishing the criteria, the conditions, and the modalities concerning the public subscription of capital increases and the provision of the State guarantee.