

Unofficial Translation

DECREE LAW 9 OCTOBER 2008 No. 155

THE PRESIDENT OF THE REPUBLIC

Having regard to Articles 77 and 78 of the Italian Constitution;

Having regard to Article 47 of the Italian Constitution;

Having regard to Article 117, paragraph 2, letter e) of the Italian Constitution;

Having regard to Legislative Decree 385 of 1 September 1993;

Having regard to Legislative Decree 58 of 24 February 1998;

Having considered the conclusions of the Ecofin Council of 7 October 2008 on the common principles of the European Union for the adoption of immediate responses to financial turmoil;

Having assessed the exceptional necessity and urgency to guarantee the stability of the banking system and the continuity of credit flows to enterprises and consumers, in the context of the current situation of crisis of international financial markets;

Having considered the exceptional necessity and urgency of establishing a programme for protecting public savings and preserving financial stability;

Having regard to the decision adopted by the Council of Ministers in the meeting of 8 October 2008;

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

Adopts the following Decree Law:

Art. 1

1. The Ministry for the Economy and Finance, also in derogation of national accounting provisions, is authorised to underwrite or guarantee any capital increase approved by Italian banks facing a situation of capital inadequacy ascertained by the Bank of Italy. The underwriting may be undertaken provided that the capital increase has not been completed at the date of entry into force of this Decree and that a programme of stabilisation and strengthening of the bank has been agreed covering at least 36 months.

2. The underwriting shall be effected on the basis of an evaluation by the Bank of Italy of the following elements:

a) the existence of the conditions mentioned in paragraph 1;

- b) the adequacy of the bank's stabilisation and strengthening plan presented in connection with the approval of the capital increase;
 - c) the dividend policy approved by the general meetings of the shareholders of the applicant bank over the period of the guarantee.
3. The shares held by the Ministry for the Economy and Finance from the date of the underwriting to the date of the subsequent sale, if any, have a privilege in the distribution of dividends over all other categories of shares.
4. Until the date of the selling of the shares underwritten by the Ministry for the Economy and Finance any substantial change to the programme of stabilisation and strengthening of the bank, as mentioned in paragraph 1, is subject to the prior approval of the Ministry for the Economy and Finance, after consulting the Bank of Italy.
5. Holdings acquired by the Ministry for the Economy and Finance in accordance with this Article are not subject to the limits to capital ownership established in Title 2, Chapter 5 of Legislative Decree 385 of 1 September 1993. The status of member of a *banca popolare* is acquired starting from the date of the underwriting of the shares. The special provisions on the exercise of voting rights established for co-operative enterprises shall not apply to participated banks up to the date of selling of the shares underwritten by the Minister for the Economy and Finance.
6. The provisions of article 106, paragraph 1 and article 109, paragraph 1, of Legislative Decree 58 of 24 February 1998 are not applicable to the Ministry for the Economy and Finance.
7. With a decree of the President of the Council of Ministers on the proposal of the Minister for the Economy and Finance, the resources necessary for financing each operation mentioned in this article are identified. The said resources, to be inserted in a specific budget entry of the expenditure forecast of the Ministry for the Economy and Finance, are identified in relation to each operation through:
- a) linear reduction of financial endowments, within the present legislation, of the expenditure commitments of each Ministry, with the exclusion of the expenditure endowments of each commitment connected: to salaries, checks, pensions and other fixed expenses; to interest expenses; to corrective and compensatory entries of revenues, including the accounting settlements with Regions; to transfers to local entities of compulsory nature; of the ordinary fund for the universities; of resources earmarked for research; of resources earmarked to financing of 0,5% of personal income tax; and of resources dependent from parameters established by the law or deriving from international agreements;
 - b) reduction of single legislative expenditure authorizations;
 - c) use of resources available on special accounts and on treasury accounts in the name of Public Administrations and National Public Entities, with exclusion of those in the name of local Administrations, with corresponding reduction of the related expenditure authorizations and reallocation to the above mentioned budget entry;
 - d) issue of public debt securities.
8. The decrees referred to in paragraph 7 and the related decrees regarding budget changes are promptly transmitted to the Parliament and communicated to the National Audit Office.

1. The procedures laid down in art. 70 ff. of the Legislative Decree 385 of 1 September 1993 shall apply in a situation of severe crisis of Italian banks, also with regard to liquidity, that may jeopardise the stability of the financial system.

2. The Ministry for the Economy and Finance is authorised to undertake the operations as defined in art. 1, also in favour of banks which are subject to the procedures laid down in paragraph 1. The special administrators, after consulting the oversight committee, shall be solely responsible for deciding capital operations in which the Ministry for the Economy and Finance participates. The decision of the special administrators is subject to the prior authorisation of the Bank of Italy. The authorisation complements the evaluation referred to in Art. 1, paragraph 2.

Art. 3

1. Where the Bank of Italy grants loans secured by pledge or credit transfer for the purpose of satisfying liquidity needs, the guarantee is intended to be provided, with effect towards debtors and third parties having entitlement, upon subscribing the financial guarantee contract, in derogation of art. 1264, 1265 and 2800 of the Italian Civil Code and of art. 1, letter *q*), and 2, paragraph 1, letter *b*), of the Legislative Decree 170 of 21 May 2004. The provisions of Art. 64, paragraph 4, of the Royal Decree 267 of 16 March 1942, shall apply to the above-mentioned loans.

2. The Ministry for the Economy and Finance can provide the State guarantee for loans granted by the Bank of Italy to Italian banks and to Italian subsidiaries of foreign banks for the purpose of facing severe liquidity crises (emergency liquidity assistance).

Art. 4

1. As a complement to and in addition to the interventions of the depositor guarantee schemes established and recognised according to art. 96 of Legislative Decree 385 of 1 September 1993, the Ministry for the Economy and Finance is authorised to provide the State guarantee in favour of the depositors of the Italian banks for a period of 36 months from the entry into force of this decree law.

Art. 5

1. Within 30 days from the publication of this law decree, the Minister for the Economy and Finance, after consulting the Bank of Italy, shall issue general administrative measures establishing the criteria, the conditions, and the modalities concerning the public underwriting of capital increases, the provision of the State guarantee, and the implementation of this decree law.

2. The State guarantee provided for in articles 3, paragraph 2, and 4 will be listed in the annex to the expenditure forecast of the Ministry for the Economy and Finance referred to in art. 13 of the Law 468 of 5 August 1978. The related financial burden, if any, will be covered, according to art. 7, paragraph 2, number 2), of the Law 468 of 5 August 1978, through charges allocated to the basic forecast unit 8.1.7.

Art. 6

The present decree enters into force on the date of its publication on the Official Journal of the Italian Republic and will be presented to the Parliament for the conversion into law. The present decree, with the seal of the State, will be included in the official collection of legislative acts of the Italian Republic. It is mandatory, for whoever is held to, to observe it and to have it observed.

Rome, 9 October 2008