

Law no. 147 of 27 December 2013

Provisions for the annual and multi-year State budget (2014 Stability Law). Paragraph 572

In force as of 1 January 2014

572. The following amendments have been made to article 62 of Decree-Law no. 112 of 25 June 2008, amended, with modifications, by Law no. 133 of 6 August 2008, as amended:

a) In paragraph 2, after the words: "and the local authorities" the following have been added: "mentioned in article 2 of the consolidated act, Legislative Decree no. 267 of 18 August 2000", and after the words: "reimbursement of capital in a lump sum at maturity" the following are added: ", as well as securities or other liabilities in foreign currency";

b) Paragraph 3 is substituted by:

"3. Except for what is foreseen in the following paragraphs, the entities mentioned in paragraph 2 are prohibited from:

a) entering into contracts concerning derivatives provided for by article 1, paragraph 3, of the Consolidated Act of provisions in matters of financial intermediation, referred to in Legislative Decree no. 58 of 24 February 1998;

b) renegotiating derivative contracts existing at the date of entry into force of the present provision;

c) entering into funding contracts that include a derivative component";

c) After paragraph 3 the following are added:

"3-ii. The following are excluded from the prohibition mentioned in paragraph 3:

a) advanced total extinction of contracts concerning derivatives;

b) reassignment of the same contracts to counterparties different from the original ones, in the form of subjective novation, without the modification of the financial terms and conditions of the reassigned contracts;

c) the possibility of restructuring the derivative contract following a change in the liability to which the contract refers, exclusively in the form of operations without optional components and aimed at changing from fixed to floating rate or vice-versa, with the intent of maintaining correspondence between the renegotiated liability and the connected hedge;

d) the conclusion of funding contracts that include the purchase of caps by the entity.

3-iii. The prohibition mentioned in paragraph 3 does not include the option for the entities mentioned in paragraph 2 to remove, from existing derivative contracts, any advance cancellation clauses, by cash payment of the relevant balance during the reference financial year.

3-iv. The prohibition mentioned in paragraph 3 does not include the option for the entities mentioned in paragraph 2 to remove, from existing derivative contracts, any optional components other than the cap which the entities purchased, by cash payment of the relevant balance during the reference financial year";

d) Paragraph 4 is substituted by:

"4. In the cases provided for by paragraphs 3-ii, 3-iii and 3-iv, the entity charged to sign the contract on behalf of the public entity must certify in writing to know the risks and characteristics of the same contract, and also the changes that occurred in the hedge of the underlying debt";

e) Paragraph 5 is substituted by:

"5. The contract concerning derivatives or the funding contract that includes the purchase of a cap by the entity, entered into in violation of the dispositions of the present article or lacking the certificate referred to in paragraph 4, is null and void. Nullity may be invoked only by the entity";

f) Paragraph 6 is repealed;

g) In paragraph 10, the words: "of the provision mentioned in paragraph 3", are substituted with: "of the 2014 Stability Law".