



The Minister of Economy and Finance

No. 103382

IN VIEW OF the Decree of the President of the Republic No. 398, 30 December 2003, bearing the “Consolidated Act of the regulations and legislative provisions regarding public debt” and in particular, Article 3, Paragraph 1-bis, introduced by Law No. 190, 23 December 2014 (2015 Stability Law), where it is provided that the Minister of Economy and Finance establishes by decree the terms and conditions for the implementation of the provisions related to the bilateral collateral with reference to derivative transactions;

IN VIEW OF Article 5, Paragraph 6 of the aforementioned Decree of the President of the Republic No. 398, 30 December 2003, as amended by Law No. 190, 23 December 2014 (2015 Stability Law), bearing the regulations for the liquidity account held by the Treasury at the Bank of Italy for the Treasury service, which provide, *inter alia*, that “seizures, foreclosures, oppositions or other precautionary measures are not admitted on the liquidity account and accounts similar thereto”;

IN VIEW OF Legislative Decree No. 300, 30 July 1999, bearing the “Reform of the Organization of the Government, pursuant to Article 11 of Law No. 59, 15 March 1997,” and in particular, Article 5, Paragraph 3, where it is provided that the head of the department carries out tasks of coordination, direction, and control of the general management offices within the department, for the purpose of insuring the continuity of the administrative functions, and is responsible for the overall results achieved by the offices reporting to him, as part of the implementation of the Minister’s plans and strategies;

IN VIEW OF Legislative Decree No. 165, 30 March 2001, bearing “General Regulations on the Ordering of the Work Carried Out by the Public Administrations” and in particular, Article 4, which, although it vests the governance bodies with the responsibility for the exercise of the functions of policy-administrative planning and the verification of the extent to which the results of administrative and management activity are consistent with the plans and strategies conveyed, has instead vested the senior managers with the responsibility for the adoption of the acts and administrative orders, inclusive of those that commit the administration with respect to external parties, as well as the financial, technical, and administrative management;

IN VIEW OF the regulations for the organization of the Ministry of the Economy and Finance, issued with decree of the President of the Council of Ministers No. 67, 27 February 2013, and in particular Article 5, Paragraph 2, where the functions carried out by Directorate II are defined;

IN VIEW OF Legislative Decree No. 50, 18 April 2016, bearing the “Public Procurement Code,” updated with the amendments introduced by Legislative Decree No. 56, 19 April 2017, published in the Official Gazette No. 103 on 5 May 2017, and Decree Law No. 50, 24 April 2017, converted, with amendments, by Law No. 96, 21 June 2017, which establishes that the provisions of the code are not applicable to contracts concerning financial services in relation to the issuance, purchase, sale, and transfer of securities or other financial instruments;

IN VIEW OF Law No. 20, 14 January 1994, bearing “Provisions on the Subject of the Jurisdiction and Control of the Court of Auditors” and in particular, Article 3, Paragraph 13, which establishes that the provisions referenced in Paragraph 1, related to the legitimate preventive control of the Court of Auditors, are not applicable to the acts and orders issued with respect to monetary, credit, securities and foreign-exchange matters;

CONSIDERING the need to implement the provisions in relation to the bilateral collateral agreements referring to derivative transactions;

Furthermore, **CONSIDERING** that the guarantee referenced in Article 3, Paragraph 1-bis, of the cited Decree of the President of the Republic No. 398 may be established either through the creation of a pledge on the assets owned by the parties of the collateral agreement, or through the transfer of the ownership of such assets to the beneficiary of the guarantee, with the consequent need to implement the provisions that take into account both operational procedures;

DECREES

Article 1

Subject matter

1. This decree rules terms and conditions with which the Department of the Treasury may proceed to the execution of collateral agreements, aimed at providing bilateral guarantees, with counterparties in derivatives pursuant to Article 3, Paragraph 1-bis of the Decree of the President of the Republic No. 398 cited in the preamble; the guarantee may be established either through the creation of a pledge on the assets owned by the parties of the collateral agreement, or through the transfer of the ownership of such assets to the beneficiary of the guarantee.

Article 2

Definitions

1. In this decree, the expression:
 - a) “Cash” stays for cash, as defined by Article 1 of Legislative Decree No. 170 of 21 May

2004;

- b) “Counterparties in derivatives” stays for counterparties with whom a master agreement for derivative transactions has been signed;
- c) “Master agreement for derivative transactions” stays for each master agreement adopted for governing derivative transactions between the Republic of Italy and its counterparties, signed on the basis of the most prevalent contractual models employed in international business practices, as published by the sector’s leading trade associations, including, without limitation, the agreement executed in the form of the ISDA Master Agreement (1992 or 2002 version), published by the International Swaps and Derivatives Association (ISDA);
- d) “Collateral agreement” stays for the agreement governing the terms and conditions for the mutual guarantee in relation to the guaranteed transactions;
- e) “Designated accounts” stays for:
 - (i) The Treasury accounts referenced in Article 3, Paragraph 1-bis of the Decree of the President of the Republic No. 398, bearing the “Consolidated Act of the regulations and legislative provisions regarding public debt”,
 - (ii) Other accounts and deposits established for this purpose within the banking system and held in the name of the Ministry of the Economy and Finance, used for the mobilization of the collateral, whether in the form of government securities or in cash;
 - (iii) Other accounts and deposits established for this purpose within the banking system and held in the name of the individual counterparties, used for the mobilization of the collateral, whether in the form of government securities or cash;
- f) “Framework Decree”: stays for the ministerial decree to be issued each year pursuant to Article 3 of the Decree of the President of the Republic No. 398;
- g) “Exposure”: stays for, with respect to each party of a master agreement for derivative transactions, the amount, if positive, that would be due to such party, in compliance with the terms of the master agreement for derivative transactions, if only the collateralized transactions were to be terminated early in the day and at the time established in the collateral agreement with reference to the date in which the exposure is calculated;
- h) “Collateralized transactions”: stays for the derivative transactions, as part of a master agreement for derivative transactions, subject to a collateral agreement;
- i) “Pre-existing transactions”: stays for the derivative transactions , executed prior to the date of effectiveness of the collateral agreement, pursuant to Article 6, Paragraph 1, Letter b of this decree;
- j) “Collateral margin”: stays for all of the assets established as a guarantee pursuant to a collateral agreement;
- k) “External Credit Assessment Institutions (ECAI)”: stays for an external credit assessment institution as defined by Article 4 of the Regulations (EU) Number 575/2013 of the European Parliament and the Council of the European Union, 26 June 2013;
- l) “Treasury”: stays for the Department of the Treasury.

Article 3

Purposes and collateral

1. The agreements referenced in Article 1 have the purpose of guaranteeing the exposure of one party with respect to the other in derivative transactions.
2. The assets that may be used for the collateral margin are government securities of Euro Area countries, denominated in euro, and having the prerequisites set forth in the Article 4 (“securities margin”), or cash in euro (“cash margin”).

Article 4

Margin requirements: securities

1. Government securities of Euro Area countries, denominated in euro, that may constitute the collateral margin must be deposited in the designated accounts and must satisfy all of the following requirements:
 - (i) The remuneration associated with the security must be determined by a fixed or floating rate, or by inflation indexed interest rate, or the security may be a zero-coupon;
 - (ii) The security must be traded on one of the multilateral systems, with registered office in the European Union, and defined by Article 4, Paragraph 1, Point 19 of the 2014/65/UD (MIFID II) directive, that is:
 - A regulated market, as referenced in Point 21 of the cited Article 4;
 - A multilateral trading system, as referenced in Point 22 of the cited Article 4;
 - An organized trading system, as referenced in Point 23 of the cited Article 4;
 - (iii) The security must be issued by a Sovereign having at least one ECAI rating among those recognized by the European Central Bank within the scope of the collateral management in monetary-policy transactions, with such rating being no less than that of the Republic of Italy;
 - (iv) The right to the reimbursement of the security and the right to the payment of the related coupons must not be subordinated with respect to non-subordinated credits claimed against the issuer.

Article 5

Cash margins

1. The cash margin must be denominated in euro and deposited into one of the designated accounts.

Article 6

Derivatives transactions covered by collateral agreements

1. The following may constitute collateralized transactions within the framework of a collateral agreement:
 - a) Transactions executed after the execution of the collateral agreement;
 - b) Pre-existing transactions, as identified by the Treasury, provided that such transactions have been executed with counterparties in derivatives for which the exposure related to the whole set of outstanding derivatives is not less than the exposure threshold identified within the Framework Decree, and provided that the Treasury achieves an economic benefit as a result of including such transaction(s) under the collateral agreement.
2. The benefit must be an amount that the counterparty in derivatives agrees to pay to the State budget at the time when the pre-existing transaction(s) is (are) introduced under the collateral agreement. In order for the counterparty in derivatives to benefit from the granting of the collateral also on pre-existing transactions, such benefit must have been considered congruous by the Treasury, also on the basis of the assessment of the specific content of the contractual clauses that must have been agreed with the counterparty from time to time involved, starting from the contractual models set by the Treasury and governing the terms and conditions for the constitution of the collateral in relation to such pre-existing transactions.
3. The collateral agreements contracted by the Treasury must be compatible with the constraints in place on the Treasury's liquidity with such agreements, and with public-finance and budget needs; and they must take into account the expected evolution of the exposure deriving from the transactions covered by the agreement.
4. The State resources allocated for the granting of the collateral margin in relation to pre-existing transactions will be distributed among the counterparties identified in compliance with Paragraph 1, Letter b of this article, in accordance with the terms and conditions to be determined by the Treasury competent units.
5. Any other pre-existing position may be subject to collateral agreements, regardless of the above-identified criterion, through an additional and motivated ministerial decree.

Article 7

Execution and approval of collateral agreements

1. The collateral agreements will be governed by Italian law. The Italian courts will have exclusive jurisdiction to settle any dispute arising from collateral agreements.
2. The collateral agreements will be signed, on behalf of the Treasury, by the Director General of Directorate II of the Department of the Treasury, and approved with a decree by the Director General of the Treasury.

This decree will be published in the Official Gazette of the Republic of Italy.

Rome, 20 December 2017

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This translation into English is intended solely as a convenience to the English-reading public. The only official version is the Italian one, as published in the Official Gazette of the Italian Republic.