



Ministry of Economy and Finance

Decree of 5 May 2004 (published in the *Official Gazette* of 13 May 2004 No. 111)

“Dispositions in the event of late payment of issue, exchange, or buy-back transactions.”

**THE MINISTRY OF ECONOMY
AND FINANCE**

GIVEN Article 38 of the law of 30 March 1981, no.119, and successive modifications, as well as Article 43, first paragraph, of the law of 7 August 1982, no. 526, by virtue of which the Minister of Economy and Finance is authorized to conduct indebtedness transactions also by issuing Treasury certificates of deposit (CCTs) and multi-year Treasury bonds (BTPs);

GIVEN the law-decree of 20 May 1993, no.149, enacted, with modifications, by the law of 19 July 1993, no.237, and in particular Article 9, by which it was established, among others, that the Minister of Economy and Finance will determine by decree the conditions and all other modalities relative to the issuing and placement of public bonds, and can authorize the reimbursement before maturity of the same as well as the trading among bonds issued and bonds to be issued;

GIVEN Article 39 of the cited law no.119 of 1981, which grants the Minister of Economy and Finance the faculty to issue Treasury bills according to the norms and with the characteristics for these same established by his decrees, in modification, when necessary, of the norms and characteristics stipulated by the general accounting standards of the State;

GIVEN the law of 27 October 1993, no. 432, and successive modifications, bearing the establishment of the Government Bond Sinking Fund, as well as the ministerial decree no. 16344 of 29 May 2001, published in the Official Gazette of the Italian Republic no.133 of 11 June 2001, by which the modalities for use of said Fund were established;

GIVEN the ministerial decree of 4 August 2003, no. 73150, published in the Official Gazette of the Italian Republic no. 210 of 10 September 2003, which established the guidelines for bond trading transactions to be conducted by means of telematic trading systems;

CONSIDERING that in the decrees concerning the issue, exchange, and buy-back of the aforementioned Government bonds it is stipulated that the operators' bids relative to such transactions are binding and irrevocable and consequently must be paid, within the timeframe and by the means established in the same decrees;

GIVEN the ministerial decree of 17 April 2000, no.143, published in the Official Gazette of the Italian Republic no. 130 of 6 June 2000, by which the regulation was adopted concerning the guidelines for the central management of Government bonds;

GIVEN the decree of 23 August 2000, published in the Official Gazette of the Italian Republic no. 204 of 1 September 2000, by which the central management service of Government bonds was entrusted to the company Monte Titoli S.p.A.;

GIVEN the regulation adopted with the ministerial decree of 13 May 1999, no. 219, published in the Official Gazette of the Italian Republic no.159 of 9 July 1999, and in particular Article 3, relative to the indicating of operators considered “Government bond specialists”;

CONSIDERING that the payment of the amounts or the bonds resulting from the aforementioned Government bond issue, exchange, or buy-back transactions will take place by means of the “Express II” liquidation services, managed by Monte Titoli S.p.A.;

RECOGNIZED the usefulness of provisions for the case of late payment, from operators, of cash or bonds referred to the aforementioned transactions, establishing penalties for such an eventuality;

D E C R E E S :

Article 1 (objective of the decree)

1. Pursuant to the adoption of the liquidation services “Express II”, managed by Monte Titoli S.p.A., for the payment of Government bond issue, exchange, or buy-back transactions cited in the preamble, in the event of late fulfillment of payment obligations in cash or bonds due to insufficiency of the accounts of operators, the dispositions of the present decree will be applied.

Article 2
(resubmission period for due amounts)

1. In the event the transactions cited in Article 1 are not paid for on the date stipulated in the rules governing these same transactions, the amounts will be resubmitted, in “Express II”, for a maximum period of five working days according to the TARGET calendar.

Article 3
(delinquency of cash payment)

1. In the event of late fulfillment of cash payment obligations for allocated Government bonds due on the days stipulated by the relative provisions, the delinquent operator will have to pay a cash penalty comprised of a fixed portion and a variable portion. The fixed portion will be equal to 500 euros for every day of delinquency; the variable portion will be calculated by applying to the full amount due on the allocation an annual tax, proportionate to the number of days of delinquency, equal to the marginal refinancing tax fixed by the European Central Bank, and increased by five percentage points for the first day and by ten percentage points for the next four days.

2. The total amount to be paid in penalty will be equal to the sum of the penalties corresponding to each day of delinquency, calculated as indicated in the preceding paragraph.

3. For bonds issued, the amount not paid will be entered as a debit to the availability account through an entry in the transitory collective account, from which it will be removed once the intermediaries have made payment. The amount left unpaid definitively will be adjusted by the Ministry through the issue of a specific mandate for payment in favor of the Head of the Section of the Treasury involved.

Article 4
(delinquency of payment in bonds)

1. In the event of late fulfillment of payment obligations in Government bonds for bond exchange or buy-back transactions due on the days stipulated by the relative provisions, the delinquent operator will have to pay a cash penalty equal to 500 euros for every day of delinquency.

2. For the transactions mentioned in the preceding paragraph, in the event of late fulfillment of the obligation to consign bonds, the Bank of Italy will credit operators with the corresponding amount on the day the bonds are consigned, without accrued interest. Accordingly, for those transactions conducted by means of automatic procedures, the Bank of Italy will see to the reversal from the management account of the delinquent operator, on the day on which a due payment is not received, of the corresponding amount for the bonds not consigned, by canceling the payment transaction from the assets account or from the Government bond sinking fund. The bonds left definitively unconsigned by operators owing them implies a reduction of the corresponding value of the bonds referring to the transactions mentioned in the preceding paragraph.

Article 5 (Buy-in/sell-out procedure)

1. At the end of the five-day delinquency period mentioned in the preceding articles, the Ministry of Economy and Finance will give to a financial intermediary the duty of selling bonds, in the event of unfulfilled payments in cash, or of purchasing bonds, in the event of unfulfilled payments in bonds, taking the place of the delinquent operator (*buy-in/sell-out* procedure). The Ministry is exempt from communicating to the delinquent operator the activation of the procedure cited in the present article.

2. The duty mentioned in the preceding paragraph will be given, on a rotating basis, to the Government Bond Specialists who occupy the first five positions in the ranking published annually by the Treasury. A commission may be established in favor of the aforementioned intermediaries, parallel to the activity conducted..

3. The procedure will be activated for a maximum of three working days. In the event of a negative outcome, the due amount will be eliminated and the transaction, with regard to the delinquent operator, will not be carried out. In the event of a partially positive outcome, the due amount will be eliminated only for the quota not recovered.

4. The Bank of Italy will see to the payment fulfillment connected with buy-in/sell-out transactions and to the insertion in Express II, jointly with the intermediary in charge of conducting said transactions, of the due amounts in cash or bonds.

5. All costs of the procedure, along with the losses deriving from the procedure itself, will be charged to the delinquent subject, while any possible earnings will be kept by the Ministry.

Article 6
(administrative penalties)

1. Should the penalties outlined in articles 3 and 4 of the present decree be applied to a given operator three times in the course of six months, said operator will not be able to participate in Government bond placement, exchange, or buy-back transactions for a period of thirty days beginning from the first day of failure to make payment for the most recent delinquent amount.

Article 7
(attribution of sums collected to income in the State budget)

1. The Bank of Italy will see to the collection of the penalties outlined in articles 3 and 4 and of the amounts mentioned in article 5 of the present decree by debiting the accounts of the delinquent operators for the corresponding amounts, on the day the cash or owed bonds are deposited.

2. The same Bank of Italy will see to the depositing of the amounts thus collected, on the same day on which they are acquired, at the Section of Rome of the State Provincial Treasury, with attribution to budget item 3248 (base previsional unit 6.2.6) of the statement of prevision of income in the state budget for financial year 2004, and to the corresponding budget items for the following years.

3. The aforementioned Section of the Treasury, with regard to said deposits, will provide the appropriate notifications of State budget income.

Article 8
(payment through an intermediary)

1. Should the payment of transactions mentioned in Article 1 take place through an intermediary different from the one participating in said transactions, the penalties outlined in the present decree will be debited to the intermediary in charge of making payment.

Article 9
(protection of resulting bills)

1. Should, pursuant to definitive delinquency, an amount be eliminated, as provided for in Article 5, third paragraph, of the present decree, the bills produced and

the acts adopted on the basis of auction prices determined at Government bond placement, exchange or buy-back auctions, as well as on the basis of the other results of these same auctions as communicated to the public by means of expected press releases, remain valid.

The present decree will be sent to the Central Budget Office at the Ministry of Economy and Finance, will be published in the Official Gazette of the Italian Republic, and will go into effect on the day following that of publication.

Rome, 5 May 2004

THE MINISTER
(Signed TREMONTI)