



Ministry of Economy and Finance
Treasury Department
Directorate II

Decree no. 993039 of November the 11th, 2011

Selection and Evaluation of Specialists in Government Bonds
(Specialists Decree)

CONSIDERED the Legislative Decree No 29 of 3 February 1993 on “*Streamlining the organization of public administrations and revision of regulations on public employment, pursuant to article 2, Law No 421 of 23 October 1992*”, and in particular article 3;

CONSIDERED the Legislative Decree No 58 of 24 February 1998 “*Consolidated Finance Law*” as amended, and in particular article 66, whereby the Minister of Economy and Finance, after consulting the Bank of Italy and Consob, regulates and authorizes wholesale markets for Government bonds and approves their regulations, even as an exception to the dispositions of item I, of title I, of part III of the same legislative decree;

CONSIDERED the Ministerial Decree No 216 of 22 December 2009, “*Regulation on identifying the characteristics of wholesale trading of financial instruments and on the discipline of wholesale trading of Government bonds*” and in particular article 23, paragraphs 1 to 5, which discipline the enrolment in the List of Specialists in Government bonds, the possession of requirements that enrolment is dependent upon and how the same are verified;

CONSIDERED also paragraphs 3 and 4 of cited article 23 of Ministerial Decree No 216 of 22 December 2009, which identifies the Specialists Decree as the instrument to set criteria and methods to be used to evaluate and monitor the activity of Specialists in Government bonds, for the verification and fulfilment of the requirements for enrolment permanence in the List of Specialists in Government bonds;

CONSIDERED the Decree of the Public Debt General Director No 853355 of 1 March 2011 (the so-called “*Markets Decree*”), “*Selection of wholesale Government bond markets eligible for the evaluation of Specialists in Government bonds*” and in particular article 9, which disciplines the selection of trading venues in which to evaluate the activity carried out by Specialists in Government bonds;

CONSIDERED finally the rules regarding the administrative procedure and the rights of access to administrative documents mentioned in Law No 241 of 7 August 1990, and in particular articles 2, 3, 7, 10, 10-bis and 12;

CONSIDERED it necessary to specify in detail the technical and administrative procedures that will be used to check the fulfilment of requirements established by article 23, paragraph 2 of cited Ministerial Decree No 216 of 22 December 2009, needed for the enrolment in the list of Specialists in Government bonds and for the permanence in the same;

DECREES

Article 1 Definitions

1. In this Decree, the following terminology applies:

- a) “Minister / Ministry”: Minister / Ministry of Economy and Finance;
- b) “Treasury”: the Treasury Department, Ministry of Economy and Finance;
- c) “Debt Directorate”: Directorate General of Public Debt at the Treasury Department, Ministry of Economy and Finance;
- d) “TUF”: Consolidated Finance Law, Legislative Decree No 58 of 24 February 1998, and amendments;
- e) “trading venues”: regulated markets and multilateral trading systems referred to in Directive 2004/39/EC (MiFID) whose registered offices are within the European Union;
- f) “market maker”: the dealer who is active on trading venues, on a continuous basis, as willing to negotiate as a direct counterparty in buying and selling of financial instruments at prices set by the same (article 1, paragraph 5-quater of the TUF);
- g) “Regulation 216/2009”: Ministerial Decree No 216 of 22 December 2009, *Regulation on identifying the characteristics of wholesale trading of financial instruments and on the discipline of wholesale trading of Government bonds*;
- h) “Specialists”: Specialists in Government bonds as defined in article 23, paragraph 1, of Regulation 216/2009;
- i) “List of Specialists”: the set of Specialists;
- l) “List”: the list of regulated markets and multilateral trading systems eligible to evaluate activity carried out by Specialists;
- m) “Markets Decree”: the Decree of Public Debt’s Director General 's concerning the selection of wholesale trading venues eligible to evaluate Specialists’ activity;
- n) “Specialists Decree”: the Decree of Public Debt’s Director General concerning the selection of trading venues, among the eligible ones, in which to evaluate Specialists in Government bonds, and also the selection and evaluation of Specialists themselves.
- o) “Specialists Evaluation Criteria Decree”: the Decree of the Public Debt’s Director General concerning the definition of the criteria according to which the activity carried out by Specialists is evaluated.

Article 2

Scope

1. The present decree regulates the criteria by which the Ministry proceeds to select the trading venues, among those included in the List, in which to evaluate the activity carried out by Specialists.
2. The present decree regulates, moreover, the ways in which market makers can forward requests for registration in the List of Specialist and also the criteria and procedures with which the Ministry verifies the respect, by market makers, of the requirements for registration in the same List.

TITLE 1

TRADING VENUES IN WHICH TO EVALUATE SPECIALISTS' ACTIVITY

Article 3

Selection of trading venues

1. Among the trading venues included in the List, as per article 3 of the Markets Decree, the Ministry chooses up to three according to the preferences expressed by the Specialists. Should the List be made up of only one trading venue, the same shall be automatically chosen for the evaluation of activity carried out by Specialists.
2. In reference to paragraph 1, the Ministry collects the indications from the Specialists and establishes a ranking that takes into account the order of preferences expressed by the Specialists and chooses, finally, those trading venues that are in the best position in that ranking . The Ministry, having consulted the Market Committee, set up as per article 7 of the Markets Decree, determines the number of trading venues to select, within the limits mentioned in paragraph 1.
3. The selection mentioned in paragraphs 1 and 2 is valid for three years, unless alternative durations are specified by the Ministry, having consulted the Market Committee.
4. If, in one or more of the trading venues selected as per paragraphs 1 and 2, the activity carried out by the Specialists is not of a significant amount, the Ministry can consider the possibility of excluding that venue from those selected.
5. If, as per article 6 of the Markets Decree, a trading venue is cancelled from the List, the activity of monitoring and evaluating Specialists continues to be carried out in the other selected venues. If the cancellation involves the sole trading venue selected in which to evaluate the Specialists, the Ministry, at the same time, will set up a new selection procedure to enrol trading venues in the List.

TITLE 2
SPECIALISTS IN GOVERNMENT BONDS

Article 4
Requirements to apply for enrolment in the List of Specialists

1. Market makers in Italian Government bonds that want to apply for enrolment in the List of Specialists, must reside in the European Union, be a bank or an investment company, operate on regulated markets and/or on wholesale multilateral trading systems whose registered office is in the European Union, that meet the requirements provided by article 23, paragraph 2, of Regulation 216/2009 as well as:
 - a. have operated for at least five months, as market makers on Italian Government bonds, on at least one of the trading venues included in the List;
 - b. have signed the protocol agreement with the Bank of Italy to enable participation in auctions, buybacks and exchange transactions of Government bonds (Bank of Italy, Divisione Debito Pubblico, Servizio Operazioni di Banca Centrale – via Nazionale, 91 – 00184 Roma, Italy) and attest that it is aware of what is therein contained and have put in place all that is necessary to fairly use the electronic auction system;
 - c. be in possession of a suitable organizational structure and of a satisfactory knowledge of the functioning of Italian Government bond markets from normative, technical and organizational points of view, to be checked also through relevant meetings with the Treasury;
 - d. be in possession of a net regulatory capital equal to at least 50,000,000.00 euros.

Article 5
Application for registration in the List of Specialists and observation period

1. The application for enrolment must be signed by the legal representative, according to the model (called “Application for registration in the List of Italian Government bond Specialists”) to be found on the Public Debt’s website (www.debitopubblico.it).
2. The Ministry, within 30 days of receiving the application, verifies the existence of the requirements mentioned in article 4. If the result is positive, the Ministry authorizes the market maker to take on the status of Candidate Specialist and to begin, on the first day of the month following that in which it obtained the authorization, the observation period, which will last for at least 6 months and will end on the 31st of December of the year in which the cited minimum observation period ends.

Article 6
Candidate Specialist and enrolment in the List of Specialists

1. The enrolment of the Candidate Specialist in the List of Specialists is dependent upon the satisfaction, during the observation period, of a series of requirements, mentioned in article 23, paragraph 4 of Regulation 216/2009, as are here clearly specified:
 - a. Subscription of a share of Italian Government bonds placed through auctions, of no less than 3%, calculated taking into account the financial characteristics of the bonds subscribed. In any case, participation to the primary market will be evaluated also with regard to the regularity of presence at the auctions as well as the correct participation to the same;
 - b. Accomplishment of a satisfactory assessment of the activity carried out on the secondary market in terms of contribution to the volumes traded, to liquidity and to the depth of the market, which will be evaluated also in respect to the average performance of the Specialists. Evaluation of activity carried out on the secondary market is based on the same criteria used for Specialists, mentioned in the following article 8;
 - c. Assistance in choosing how to improve the overall efficiency of debt management, also by proposing useful contributions to issuance and debt management choices.
2. During the observation period the Candidate Specialist commits itself to guarantee absolute confidentiality with regard to the information that this status gives access to.
3. The observation period, mentioned in article 5, can be prolonged in case of any critical points that may arise during that period.
4. If, at the end of the observation period, the Candidate Specialist has satisfied all the requirements mentioned in paragraph 1, the same will be enrolled in the List of Specialists.

Article 7
Transfer of the qualification of Specialist

1. As per article 23, paragraph 9 of Regulation 216/2009 the Ministry can authorize, upon motivated request, the transfer of the qualification of Specialist from one dealer to another as long as they both belong to the same group. Such a request will be accepted if the incoming party produces documents that attest to its:
 - a. belonging to the same group of the party it is substituting;
 - b. possessing a net regulatory capital equal to at least 50,000,000.00 euros;
 - c. having authorization to operate as a market maker on at least one of the venues included in the List;
 - d. having signed the protocol agreement with the Bank of Italy to enable participation in auctions, buybacks and exchange transactions of Government bonds (Bank of Italy,

2. As regards the position within the ranking elaborated up by the Treasury, the incoming dealer takes over the same position as the outgoing one
3. The application to transfer the qualification must be signed by the legal representative of the incoming party according to the model (called “Request for change of denomination/switch”) to be found on the Public Debt’s website (www.debitopubblico.it).
4. For the above mentioned request the Ministry will carry out the necessary verifications and inform of the outcome of the request in the shortest time possible, which will however be no longer than 60 days.

Article 8 **Evaluation criteria**

1. The technical and administrative procedures according to which the Ministry evaluates the contribution of Specialists, mentioned in article 23 of Regulation 216/2009, are regulated in the Specialists Evaluation Criteria Decree.

Article 9 **Privileges for Specialists**

1. The Ministry guarantees to the Specialists:
 - a. exclusive access to reserved reopenings of Government bond auctions that provide for this option as well as exchange and buyback transactions;
 - b. exclusive access to the selection of:
 1. lead managers of syndicated issuances in euros;
 2. dealers for the USD benchmark programme;
 3. dealers for bilateral buyback operations.
 - c. preference for the participation as counterparty in other issuances in euros and for derivative transactions.
2. Candidate Specialists, whose performance is in line with the Treasury’s expectations and that are thought to be able to significantly improve the placements results, can be invited to take part in syndicated transactions.
3. A satisfactory and constant operative performance by the Specialist is a necessary, but not sufficient, condition to obtain the assignment of the operations mentioned in paragraph 1, letter b). In selecting dealers, in fact, the Treasury takes into account the levels and continuity

in their role as Specialist, but makes its choices based on: a) the advisory activity in relation to the operation; b) the possession of an adequate distributional structure to guarantee the success of the specific placement being examined ; c) the ability to achieve the targets set by the issuer.

Article 10 **Exclusion from the List of Specialists**

1. If the Ministry, at the end of each observation period defined in the above mentioned Specialists Evaluation Criteria Decree, verifies non-compliance, by one or more Specialists, with the requirements for permanence in the List of Specialists, mentioned in article 23, paragraph 2 of Regulation 216/2009, provides to its cancellation from the List of Specialists and informs the interested parties through ordinary means of communication.
2. The Ministry can also provide for the cancellation of Specialists from the List of Specialists in the following other cases:
 - a. participation in auctions that compromise a normal and orderly outcome, including mistakes due to technological deficiencies, such as for example, inputting prices that lead to the activation of the safeguard mechanisms and/or the repeated use of the recovery procedure (through fax sending);
 - b. transactions carried out on the trading venues included in the List , without any economic significance and/or not finalized to real trading activity;
 - c. transactions carried out on the trading venues included in the List made on behalf of third parties;
 - d. failure to deliver bonds or missing payments on settlement dates of transactions whose counterparty is the Treasury and, should they be of a significant number, for those carried out in the trading venues included in the List;
 - e. non adherence to the Central Counterparty on Cash and Repo segments, on the trading venues included in the List activity carried out with Italian local authorities inconsistent with the relevant regulations;
 - f. activity not correspondent to the Treasury's expectations;
 - g. not have maintained activity and efficiency levels on the trading venues included in the List, as a rule, better than that of the average non Specialist or Candidate Specialist market maker operating in the same trading venues;
 - h. failure to fulfil the obligation of confidentiality with regard to the information which the status of Specialist gives access to.
3. Exclusion may arise, finally, in case the Specialist behaviour may impairs efficiency on the secondary market and the orderly conducting of trading, also according to the analysis performed by the Bank of Italy – Market Supervision Division.
4. The Ministry informs the dealer of any behaviour to be corrected; exclusion from the List of Specialists will take place in case this behaviour persists.
5. During the observation period mentioned in paragraph 1, exclusion from the List of Specialists takes place automatically if one of the requirements mentioned in article 4, paragraph 1, letter d), or in article 6, paragraph 1, letter a) are missing, and in case of the loss of the status of market maker in all the trading venues chosen in which to evaluate Specialists.

6. Specialists excluded from the List of Specialists cannot submit an application for enrolment before one year has passed since the exclusion date.

Article 11
Final and transitional provisions

1. The present Decree repeals the Decree of the Public Debt General Director No 337298 of 22 December 2010.
2. Within five months of publication of the first List, mentioned in article 8, paragraph 1, of the Markets Decree, the prerequisite to apply for registration in the List of Specialists, mentioned in article 4 paragraph 1, letter a), is understood as satisfied should the market maker in Italian Government bonds be operating since at least five months in any one of the trading venues as defined in article 1 of the present decree.
3. When the present decree enters into force, the Specialists already present in the List of Specialists are exempted from presenting a new application and are, therefore, enrolled by default.

Roma, 11 November 2011

THE DIRECTOR GENERAL

(Maria Cannata)