

Ministry of Economy and Finance

Ministerial Decree No. 216 22-12-2009

Regulation on the norms to identify the characteristics of wholesale trading in financial instruments and regulate wholesale trading in Government bonds.

Published in Official Gazette No. 65 of 19 March 2010.

Ministerial Decree No. 216 of 22 December 2009 ⁽¹⁾

Regulation on the norms to identify the characteristics of wholesale trading in financial instruments and regulate wholesale trading in Government bonds ⁽²⁾

(1) Published in Official Gazette No. 65 of 19 March 2010.

(2) Issued by the Ministry of Economy and Finance.

THE MINISTER OF ECONOMY

AND FINANCE

Having regard to *Legislative Decree No. 58 of 24 February 1998* and, in particular:

paragraph 10 of *Article 61*, which establishes that the Minister of the Economy and Finance, having consulted the Bank of Italy and Consob, shall specify the characteristics of wholesale trading in financial instruments in order to apply the provisions of the Consolidated Law;

Article 66, which establishes that the Minister of Economy and Finance, having consulted the Bank of Italy and Consob, shall regulate and authorize wholesale markets for Government bonds and approve their rules, also by way of derogation from the provisions of Head I of Title I of Part III of the same Legislative Decree;

paragraph 6 of *Article 77-bis*, which establishes that the Minister of Economy and Finance, having consulted the Bank of Italy and Consob, shall specify the minimum requirements for wholesale Multilateral Trading Facilities (MTF) for Government bonds;

paragraph 3 of *Article 79-bis*, which establishes that the Minister of Economy and Finance, having consulted the Bank of Italy and Consob, may extend, in whole or in part, pre- and post-trade transparency requirements to wholesale markets in Government bonds;

Having also regard to Articles 61, 62, 63, 64, 65, 67, 69, 70, 70-bis, 70-ter, 71, 72, 75, 76, 77, 80, 90, 189, 190 and 195 of the cited Legislative Decree;

Having regard to *Ministerial Decree No. 219 of 13 May 1999*;

Having regard to *Ministerial Decree No. 126167 of 28 December 2007* regarding transactions for stripping, trading and re-bundling of the coupon components, of the

inflation-indexed component and of the nominal value of reimbursement of Government bonds;

Having regard to the *Decree of the Treasury's Director General of 26 February 2007*, which specifies the characteristics of wholesale trading;

Having regard to *paragraphs 3 and 4 in Article 17 of Law No. 400 of 23 August 1988*;

Having consulted the Bank of Italy and Consob;

Having heard the opinion of the Council of State, issued in the meeting of the advisory section for legislative acts of the Government on 2 March 2009;

Having regard to the communication to the President of the Council of Ministers, pursuant to *paragraph 3 of Article 17 of Law No. 400/1988* (Note No. 7068 of 7 October 2009);

Adopts

the following Regulation:

Article 1 *Scope*

1. This decree regulates the characteristics of wholesale trading in financial instruments for the purpose of applying the provisions of the Consolidated Law on Finance, the wholesale trading of Government bonds on regulated markets and on MTFs and also the pre- and post-trade transparency regime of wholesale Government bond trading.

Article 2 *Definitions*

1. Terms used in this decree are listed and defined as follows:

- a) "Consolidated Law": the Consolidated Law on Finance *Legislative Decree No. 58 of 24 February 1998*, and subsequent amendments thereto;
- b) "Minister/Ministry": the Minister/Ministry of Economy and Finance;
- c) "Regulated wholesale market for Government bonds": the multilateral system which brings together or facilitates the bringing together, within its system and in accordance with its non-discretionary rules, of multiple third-parties, admitted to trading according to market rules, with buying and selling interests in Government bonds, in a way that results in wholesale contracts, and that is managed by a management company, and which is authorised and functions regularly;
- d) "Management company": the management company of a regulated wholesale market for Government bonds authorised by the Minister of Economy and Finance pursuant to *Article 66* of the Consolidated Law;
- e) "Wholesale Multilateral Trading Facility (MTF) for Government bonds": the multilateral system which brings together, within its system and in accordance with non-discretionary

rules, multiple third-party buying and selling interests in Government bonds, in a way that results in wholesale contracts;

f) "Professional clients": those parties indicated in Annex II of the *2004/39/EC Directive* (MiFID).

g) "Trading venues": the regulated markets, the MTFs and systematic internalisers mentioned in *Article 1* of the Consolidated Law;

h) "Market maker": the entity that is present on regulated markets and MTFs on a continuous basis, willing to negotiate in over-the-counter buying and selling of financial instruments at prices it defines (*Article 1*, paragraph 5-quater of the Consolidated Law);

i) "Specialists": the specialists in Italian Government bonds;

l) "Roster": the list of Specialists;

m) "List": the List of regulated markets and MTFs of Government bonds eligible to evaluate the activity carried out by Specialists;

n) "Markets Managerial Decree": the Decree of the Director General of Public Debt on the selection of wholesale trading venues in which to evaluate the activity carried out by Specialists in Government bonds;

o) "Specialists Managerial Decree": the Decree of the Director General of Public Debt on the selection, among the eligible, of wholesale trading venues in which to evaluate Specialists in Government bonds, and also the selection and evaluation of the same Specialists.

TITLE I

Characteristics of wholesale trading in financial instruments

Article 3 *Identification of the characteristics of wholesale trading in financial instruments*

1. Wholesale trades are considered those trades in which the dealers trade on their own account or, in the case of qualified persons, execute over the counter trades with proprietary capital on orders of professional clients.

2. Wholesale trading venues are those that, according to the system's rules, only allow trades mentioned in paragraph 1.

3. Wholesale trading venues require minimum tradable lots suited to the characteristics of trading and to the financial instruments in question.

TITLE II

Regulated wholesale markets for Government bonds

Article 4 *Financial resources of the management companies and determination of related and instrumental activities*

1. The minimum capital for the management companies is set at five million euros.
2. The management companies have available, at the time of authorisation and on an ongoing basis, financial resources sufficient for making possible the orderly functioning of the regulated markets managed, having regard to the nature and the size of the transactions concluded on the markets and to the extent and degree of the risks to which they are exposed.
3. The regulations issued by the National Commission for Companies and the Stock Exchange (Consob) pursuant to letter b) of paragraph 2 of *Article 61* of the Consolidated Law shall apply to wholesale markets for Government bonds.

Article 5 *Management companies' shareholders*

1. The buyers and sellers shall inform the management company, within 24 hours, of any purchase or transfer of shareholdings, mentioned in paragraph 6 of *Article 61* of the Consolidated Law, that result in exceeding the 5% threshold of ordinary share capital with voting rights in the management company itself.
2. The management companies shall inform without delay the Ministry, the Bank of Italy and Consob of any purchase or transfer of shareholdings that result in exceeding the 5% threshold of ordinary share capital with voting rights, providing documentation to confirm that the buyers meet the integrity requirements pursuant to paragraph 5 of *Article 61* of the Consolidated Law and the implementing provisions in relation thereto. Paragraph 7 of *Article 61* of the Consolidated Law shall apply; in case of noncompliance, paragraph 5 of *Article 14* of the same Consolidated Law shall apply. The challenge may also be proposed by the Bank of Italy within the deadline set by paragraph 6 of *Article 14*.
3. The management companies shall inform the Ministry, the Bank of Italy and Consob of any change in the list of shareholders resulting from the purchases and transfers referred to in paragraph 1. Without prejudice to the preceding sentence, the management companies shall submit each year to the Ministry, the Bank of Italy and Consob, upon submission of the financial statements, an updated version of the list of shareholders with an indication, for each holder of shares exceeding 5% of ordinary share capital, of:
 - a) the number of shares with voting rights held;
 - b) the percentage of shares with voting rights with respect to the total shares with voting rights.
4. The management companies shall publish the updated list of shareholders on an annual basis, even through their internet web site. Appropriate publicity shall also be given to changes in the list of shareholders.
5. Paragraph 8-bis of *Article 61* of the Consolidated Law shall apply.

Article 6 *Management company members*

1. The management companies shall inform without delay the Ministry, the Bank of Italy and Consob of the identity of the persons holding office as directors, managers and auditors, as well as of the persons who actually direct regulated market activities and transactions, and all subsequent changes in the identity of said persons. A copy of the minutes of the meeting of the responsible corporate body during which corporate officers are appointed shall be submitted to the Ministry, the Bank of Italy and Consob by the management company within 30 days.

2. The persons performing administrative, managerial or control functions must meet the integrity, expertise and independence requirements of paragraph 3 of *Article 61* of the Consolidated Law; the non-fulfilment of the requirements shall result in disqualification from office. The disqualification shall be declared by the responsible corporate body within thirty days of the appointment or of the date on which it learns that the requirements are no longer satisfied. In the event of inaction, the disqualification shall be declared by the Bank of Italy.

3. Should it be deemed appropriate, the Bank of Italy may request the exhibit of the documentation proving that the persons holding office as directors, managers and auditors meet the integrity, expertise and independence requirements and proving the nonexistence of any cause for suspension from the office and proving the absence of any impediment.

4. The management companies shall promptly inform of any change in the composition of corporate bodies. Without prejudice to what is provided for in the preceding sentence, when submitting financial statements, the management companies shall inform the Ministry, the Bank of Italy and Consob of the updated composition of corporate bodies.

Article 7 *Market regulation*

1. The organization and the operation of wholesale markets for Italian and foreign Government bonds shall be governed by rules approved by the management companies' shareholders meeting or supervisory board, or, should the shares of the management companies be traded in a regulated market, by the Board of Directors or by the management board of the same companies. The regulations may give the companies' management bodies the power to determine implementing provisions.

2. The management companies shall establish transparent and non-discretionary rules and procedures for fair and orderly trading, as well as objective criteria for the efficient execution of orders. The regulations shall in any case establish:

a) the conditions and the procedures for the admission of dealers to trading, with reference, among other matters, to capital adequacy, organizational characteristics and transaction levels;

b) the conditions and the procedures for carrying out trading, also with reference to technical procedures and the minimum number of participants;

- c) the dealers' obligations as well as the measures that can be adopted with respect to non-compliant dealers;
- d) the bonds and the contracts admitted and the criteria for determining the minimum tradable quantities;
- e) the conditions and the procedures for suspending and excluding dealers and bonds from trading;
- f) the procedures for ascertaining, publishing and disseminating prices and for processing and disseminating aggregate data on prices and quantities traded;
- g) the conditions and the procedures for clearing, settling and guaranteeing transactions concluded on the markets.

3. The regulations referred to in the preceding paragraph and any subsequent amendments thereto shall be approved within sixty days by the Minister, having consulted the Bank of Italy and Consob, verifying their conformity with the present Regulation and with EU legislation and their ability to ensure overall efficiency of the market, adequate and correct disclosure of information and the orderly execution of trading.

4. The management companies shall provide appropriate disclosure, even through their internet web site, of the full and updated text of the regulation and of any related implementing measure.

Article 8 *Organisational requirements*

1) The management companies shall:

- a) adopt adequate arrangements to identify and manage potential adverse consequences, for the operation of the market or for its participants, of any conflict of interest between the interest of the regulated market, its owners or its operator and its sound functioning, and in particular where such conflicts of interest might prove prejudicial to the accomplishment of any function referred to in the following *Article 11*;
- b) adopt appropriate measures to identify, mitigate and manage the risks to which they are exposed or which may compromise the regular functioning of the market;
- c) set up arrangements for the sound management of the technical operations of the trading system, including the establishment of effective contingency arrangements to cope with the risks of system disruptions;
- d) equip themselves with effective arrangements to facilitate the efficient and timely finalization of the transactions executed under the systems managed.

2. The management companies, at the time of authorisation and continuously thereafter, shall provide the information necessary to allow the Ministry and the Bank of Italy to ascertain the existence of the arrangements necessary to satisfy the obligations referred to in paragraph 1.

Article 9 *Authorisation of wholesale markets in Government bonds*

1. Within sixty days of the date of receipt of the management company's application, the Minister, having consulted the Bank of Italy and Consob, which shall deliver their opinion within thirty days of the request, shall authorize the operation of the markets when:
 - a) the management company demonstrates that it meets the requirements of paragraphs 2, 3, 4 and 5 of *Article 61* of the Consolidated Law and the related implementing provisions;
 - b) the management company has presented a programme of operations setting out the types of business envisaged and the organisational structure of the management company;
 - c) the management company's regulation has been approved pursuant to the preceding *Article 7*.

2. If the Ministry requests additional information from the management company, the deadlines referred to in the preceding paragraph shall be interrupted and a new deadline of thirty days shall elapse from the date of receipt of such information.

Article 10 *Withdrawal of authorisation*

1. The authorisation for the operation of wholesale markets for Government bonds may be withdrawn should the conditions set in *Article 75* of the Consolidated Law arise.

Article 11 *Responsibilities of the management company*

1. The management company shall:
 - a) organize the structures, provide the market services, and establish the fees due;
 - b) adopt all the acts necessary for the correct functioning of the market, establish and maintain effective systems and procedures to verify that the regulations are complied with;
 - c) adopt the provisions and acts necessary to prevent and to identify abuses of inside information and market manipulation;
 - d) decide on admitting, excluding and suspending bonds, contracts and dealers from trading;
 - e) inform the Ministry, the Bank of Italy and Consob of any violations of market regulation, reporting the initiatives undertaken;
 - f) manage and disseminate the information and documents indicated in the regulation provided for in *Article 65* of the Consolidated Law, where applicable.

2. The management company shall handle the other tasks, if any, assigned to it by the Bank of Italy and Consob.

Article 12 *Admission, suspension and exclusion of bonds and dealers*

1. With respect to wholesale markets for Government bonds:

- a) the provisions contained in the regulations issued by Consob pursuant to letter a) of paragraph 1-ter of *Article 62* of the Consolidated Law shall apply to the extent that they are applicable;
 - b) letter c) of paragraph 1 of *Article 64* of the Consolidated Law shall not apply.
2. The management companies, in order to ensure regular market operations, may suspend or exclude from trading the bonds, contracts and dealers which no longer comply with the rules of the market.
 3. Without prejudice to the provisions of paragraph 1, the management companies shall promptly inform the Bank of Italy and Consob of:
 - a) the decisions to admit dealers and bonds to trading;
 - b) the decisions to suspend and exclude bonds and dealers from trading.
 4. The Bank of Italy may request the management companies to suspend or exclude a bond or a dealer from trading. The decisions to suspend or exclude a bond are communicated to Consob for the purposes of fulfilling the requirements of letter b) of paragraph 1-quater of *Article 64* of the Consolidated Law.
 5. Except where it could cause significant damage to the investors' interests or to the orderly functioning of the market, the Bank of Italy shall request to suspend or exclude a bond from trading on the regulated wholesale markets for Government bonds, whenever such bond has been suspended or excluded by the competent authorities of other EU member states. For this purpose, Consob shall inform the Bank of Italy of any decision made by the competent authorities of other EU Member States to suspend or exclude bonds traded in a regulated wholesale market for Government bonds.
 6. The management companies shall immediately make public any decision related to bonds taken pursuant to paragraph 2, even through their internet web site.

Article 13 *Dealers' access*

1. The market regulation disciplines the access of dealers to the regulated wholesale market for Government bonds according to transparent and non-discriminatory rules based on objective criteria, as well as the criteria for direct or remote participation in the regulated market. Paragraph 3 of *Article 62* of the Consolidated Law shall apply.
2. Non-EU investment firms and banks that are not authorised to provide in Italy the service referred to in letter a) of paragraph 5 of *Article 1* may access regulated markets, having regard to the rules adopted by the management companies and provided that the conditions set by paragraph 2 of *Article 25* of the Consolidated Law are observed.
3. The management companies shall submit to the Bank of Italy, at the beginning of the operations of the regulated market, the list of the dealers admitted to trading on the regulated markets and shall promptly update it. The management companies shall also annually submit to the Bank of Italy and Consob, upon transmission of the financial

statements, an updated list of the dealers admitted to trading on the regulated markets managed.

Article 14 *Extension of market operations to other EU Member States*

1. The management companies that intend to provide in another EU Member State appropriate arrangements so as to facilitate access to and trading on the markets which the companies manage, shall inform the Bank of Italy the EU Member State in which they intend to provide such arrangements.
2. Within one month, the Bank of Italy shall transmit such information to Consob and to the EU Member State in which the management company intends to provide such arrangements.
3. Upon the request of the competent authority of the host Member State, the Bank of Italy shall communicate within a reasonable time the identity of the members or participants in the regulated market established in that Member State.

Article 15 *Designation of clearing and settlement systems by market participants*

1. The management companies shall disclose to the Bank of Italy the designations that the market participants intend to submit to the acknowledgement referred to in letter b) of paragraph 2 of *Article 70-bis* of the Consolidated Law.
2. The management companies without delay shall submit to the Bank of Italy the information necessary to make the assessment referred to in *Article 70-bis* of the Consolidated Law. Should 45 days elapse from the date of the Bank of Italy's receipt of such information without the Bank of Italy making any observations, the conditions referred to in letter b) of paragraph 2 of *Article 70-bis* of the Consolidated Law shall be understood to be satisfied for the systems designated.

Article 16 *Agreements between the management companies and guarantee, clearing and settlement systems in another EU Member State*

1. The management companies shall notify Consob and the Bank of Italy of the planned agreements with companies managing central counterparty, clearing and settlement systems in other EU Member States for the purpose of the guarantee, clearing and settlement of some or all transactions concluded by the participants in the regulated market. The notice, to be given 45 days prior to the date on which the agreement becomes operative, shall include the following information:
 - a) the terms and content of the agreement;
 - b) the presence of links and arrangements between the guarantee, clearing and settlement systems and the regulated market system;

c) the technical conditions identified to guarantee the efficient regulation of transactions concluded on the regulated market.

2. By the same deadline indicated in paragraph 1, the management companies shall inform the Bank of Italy and Consob of the termination of the operations covered by the agreements referred to in paragraph 1 and of any other change in the information previously communicated.

3. In order to prevent duplication in controls, the Bank of Italy and Consob shall take into account the supervision of the systems referred to in paragraph 1 already exercised by the competent authorities of the other EU Member States.

4. The management companies may reach agreements with companies managing central counterparty, clearing and settlement systems in non-EU countries, provided that the systems are subject to supervisory measures equivalent to those applicable under Italian law and provided that agreements for the exchange of information with the foreign competent authorities are reached. The implementation of the agreement shall be subordinated to the verification of the existence of the conditions referred to in paragraph 2 of *Article 70-bis* of the Consolidated Law. For this purpose, the management companies shall provide the information referred to in paragraph 1.

Article 17 *Supervision of markets*

1. The Bank of Italy shall be responsible for the supervision of wholesale markets for Government bonds, having regard to the overall efficiency and the orderly functioning of trading.

2. Consob shall be responsible for the supervision of the compliance with Title 1-bis of Part V of the Consolidated Law and with all other provisions implementing the *2003/6/EC directive*.

3. Management companies shall provide Consob and the Bank of Italy with data and information on the transactions concluded and on the activity carried out on the market by the dealers.

4. The Bank of Italy may request the management companies to provide data, information, acts and documents, also on a periodic basis, in the manner and within the deadlines it shall establish, and may also carry out inspections at such companies and request the exhibit of documents and the adoption of the measures deemed necessary.

5. The Bank of Italy, in pursuit of the objectives indicated in paragraph 1, may request market participants to provide data and information on the activity carried out. Paragraph 1 of *Article 8* of the Consolidated Law, regarding information supervision, and paragraph 1 of *Article 10* of the Consolidated Law, regarding inspections for the purpose of supervision, shall apply to those dealers that are not qualified persons, and to remote EU participants admitted to trading on the wholesale markets for Government bonds. In the

case of remote participants, the Bank of Italy shall inform Consob and the competent authorities of the participant's home Member State.

6. The Bank of Italy shall promptly inform the Ministry of any irregularities detected in the exercise of its supervision.

Article 18 *Disclosure to Consob*

1. Consob shall ascertain that adequate and correct information is ensured to participants and other investors on wholesale markets for Government bonds.

2. Paragraph 2-quater of *Article 76* of the Consolidated Law shall apply.

3. Consob shall promptly inform the Ministry and the Bank of Italy of any irregularities detected in the exercise of its supervision.

Article 19 *Supervision of management companies*

1. Management companies are subject to the supervision of the Bank of Italy, which, for this purpose, shall exercise the powers referred to in the preceding *Article 17*. The same powers may be exercised with respect to other persons involved in the management company's activity. For this purpose, the Bank of Italy may also proceed with the hearing of individuals. The Bank of Italy may authorize auditors or experts to carry out verifications at the management companies; the expenses in relation thereto shall be charged to the party audited.

2. By an order of its own, the Bank of Italy identifies the management companies' information reporting requirements towards itself.

3. If necessity and urgency arise, the Bank of Italy, even by substituting the management companies, shall adopt the measures necessary for the purpose of overall efficiency and orderly functioning of the market.

4. The Minister, having consulted the Bank of Italy and Consob, shall verify that the changes to the management companies' by-laws are not in contrast with the requirements of *Article 61* of the Consolidated Law. The proceeds for the registration to the roster of companies may not begin unless such verification has been performed.

5. The Bank of Italy is responsible for overseeing that the market regulation is suitable for ensuring the actual achievement of the objectives referred to in the preceding paragraph 3.

6. The Ministry, upon the proposal of the Bank of Italy, having consulted Consob, may request the management company to make suitable changes to the market regulation so

as to eliminate any dysfunction detected during the supervisory activity referred to the preceding in paragraph 5.

Article 20 *Money-laundering prevention*

1. In order to minimise the risk of involvement, be it unaware, in money-laundering transactions, the management companies - in conformity with the applicable specific sector regulations - shall adopt organisational and procedural measures useful for increasing the awareness of who the market participants are, ensuring integrity and operating autonomy, preventing episodes of unfaithfulness by employees and collaborators, and promptly identifying any anomalous operations by participants to their markets.

TITLE III

Wholesale MTFs for Government bonds

Article 21 *Functioning requirements of wholesale MTFs for Government bonds*

1. The qualified persons and the management companies that manage an MTF shall establish and maintain:

- a) transparent and non-discretionary rules and procedures that provide for fair and orderly trading, together with objective criteria for the efficient execution of orders;
- b) transparent rules regarding the criteria for determining the bonds that can be traded under its systems;
- c) transparent rules based on objective criteria governing access to its system, in compliance with the provisions of paragraphs 1 and 2 of *Article 25* of the Consolidated Law; paragraph 2 of *Article 13* shall apply;
- d) effective arrangements and procedures for the regular monitoring of the compliance by its users with its rules;
- e) necessary measures to facilitate the efficient regulation of the transactions concluded under its MTF.

2. The qualified persons and the management companies that manage an MTF shall also:

- a) provide, or ensure that there is access to, sufficient publicly available information to enable its users to form an investment judgement, taking into account both the nature of the users and the types of instruments traded;
- b) clearly inform its users of their respective responsibilities as to the regulation of the transactions executed in their system;
- c) monitor the transactions performed by their users under their systems in order to identify breaches of their rules, disorderly trading conditions or conduct that may involve market abuse;
- d) comply immediately with any instruction from the Bank of Italy to suspend or exclude a bond from trading.

3. The qualified persons and the management companies that manage an MTF shall comply with the obligations on the outsourcing of operational functions which are critical to the managed activity as provided by regulations issued by Consob pursuant to *Article 77-bis* of the Consolidated Law.

4. The qualified persons and the management companies that manage an MTF shall provide appropriate disclosure, even through their internet website, of the rules on the functioning of the managed system.

Article 22 *Wholesale MTF's reporting obligations to the Bank of Italy and Consob*

1. At the time of the application for authorisation and upon any change thereafter in the information communicated, the qualified persons and the management companies that manage an MTF shall transmit to the Bank of Italy and Consob the following information:

- a) the list of bonds and dealers admitted to trading on the systems managed;
- b) the system's operating rules;
- c) the supervisory procedures adopted to ensure the integrity of the system and orderly trading;
- d) the information on the outsourcing of operational functions which are critical to the managed activity as required by regulations issued by Consob pursuant to *Article 77-bis* of the Consolidated Law.

2. The qualified persons and management companies that manage an MTF shall submit to the Bank of Italy and Consob, at least once a year, the audit plan concerning the technological and ITC structures which are relevant for the provision of the investment activity performed, with particular reference to the ITC security measures implemented and to the planned business continuity procedures.

3. The qualified persons and the management companies that manage an MTF shall promptly inform the Bank of Italy and Consob as to the results of the audits referred to in paragraph 2, together with the measures adopted or to be adopted to exclude the dysfunctions detected, specifying their implementation times.

4. The authorised persons and the management companies that manage an MTF shall promptly inform the Bank of Italy and Consob of any significant infringement of the rules of the systems managed and of any abnormal trading conditions. The dispositions contained in the rules issued by Consob pursuant to *Article 65* of the Consolidated Law shall apply to the extent compatible.

5. The preceding *Articles 16* and *20* shall apply to the qualified persons and to the management companies that manage an MTF.

6. Paragraph 1 of *Article 8* and paragraph 1 of *Article 10* of the Consolidated Law shall apply to those dealers that are not qualified persons, admitted to trading on an MTF.

TITLE IV

Specialist dealers in Government bonds

Article 23 *Specialists in Italian Government bonds* ⁽³⁾

1. The Ministry, having regard to public debt management needs, shall select Specialists among the market makers in Italian Government bonds, residing in the EU, that are banks or investment companies, operating in the regulated markets and/or in wholesale MTFs with registered office in the EU. The Ministry chooses the dealers from among those that apply and that satisfy the requirements as per the following paragraph 2 and includes them in the list, set up and made public by the Ministry itself.

2. The requirements to register to the list and remain in it are the following:

a) the possession of an organizational structure apt for an efficient participation to the primary market and to wholesale trading venues and also for an efficient distribution of Italian Government bonds to the final investors;

b) an efficient participation to the primary market of Italian Government bonds in terms of quality, continuity and quantity, with a minimum yearly placement of at least three percent of the overall nominal amount placed at auction, calculated taking into account the financial characteristics of the bonds subscribed;

c) an efficient participation to the wholesale trading venues of Italian Government bonds in terms of contribution to the volume of trade, to liquidity and to the depth of the market, through the presentation, in a continuous manner, of quotations, to buy and sell, that are binding and competitive in terms of price and quantity.

3. The criteria and the methods used to assess and monitor specialists' activity, so as to verify the compliance with the requirements mentioned in paragraph 2, are specified in the specialists managerial decree.

4. The Ministry accepts the application for registration in the list having assured that the dealer applying meets the structural requirements mentioned in paragraph 2, letter a). Registration to the list depends on the assessment of the respect of the efficiency requirements, as per letters b) and c) respectively of the mentioned paragraph 2, made during the course of a period of observation established according to the procedures indicated in the specialists managerial decree.

5. The Ministry, according to the assessment of the possession of the requisites mentioned in paragraph 2, updates the list according to the registration and exclusion of dealers.

6. The exclusion of dealers from the list can be determined upon the failure of one of the prerequisites of paragraph 2, evaluated according to the criteria specified in the specialists managerial decree, or for serious reasons, in case of behaviour in contrast with the overall efficiency of the market or the orderly functioning of trading. In the exclusion provision the suspension period is defined, after which the dealer that was excluded from the list

can present a new application for registration, which cannot however be less than one year.

7. The Ministry, according to the needs of public debt management, with the specialists managerial decree can establish the maximum number of dealers admitted to the list.

8. The specialists managerial decree also defines the criteria to assess trading activity and the distribution ability not included in the assessment of paragraph 2, letter c), and also any further criteria to evaluate the activity ancillary to public debt management.

9. The Ministry can authorise, upon reasonable request, the transfer of the status of specialist from one person to another in case the person entering the list belongs to the same group as the one exiting or arises from a company transformation process, merger or acquisition, that involves the exiting person, and if the person to whom the status of specialist is transferred satisfies the requirements for registration in the list mentioned in paragraph 1 and paragraph 2, letter a). The procedures to transfer the status of specialist are specified in the specialists managerial decree.

10. Wholesale trading venues admitted for the assessment of the specialists' activity mentioned in paragraph 2, letter c) are selected among regulated markets and MTFs of Government bonds residing within the EU that, having presented their application to the Ministry:

- a) are managed by companies with capital of at least five million euros;
- b) are set up as wholesale trading venues. Where the rules of the regulated market or of the MTF have not established the minimum negotiable quantity appropriate for the kind of trade and the characteristics of the financial instruments, it will be inferred according to the evidence of the size of contracts concluded during a period, of adequate length, preceding the application for nomination;
- c) guarantee access conditions based on transparent and non-discriminatory rules, according to objective criteria;
- d) provide the dealers with a series of obligations in terms of listing and trade that are appropriate in number and kind of bond, parameters of continuity and quality and also a system to be adopted in the case of breaches;
- e) adopt adequate pre- and post-trading transparency regimes, taking into account market characteristics, bonds traded, the size of the transactions and the type of dealers. In particular, for each instrument traded, information on the price and quantity of the best offers to buy and sell, the quantity and time of the last contract settled for each financial instrument, as well as prices and quantities traded during the day up to the moment data is gathered, are provided in real time for the dealers admitted;
- f) make public, whenever possible in real time, pre- and post-trading information at reasonable commercial conditions and in an easily accessible fashion;
- g) adopt policies and measures to ensure operational security and continuity of the systems also in the case of critical situations; in particular they commit themselves to provide evidence to the Ministry, at least once a year, of the adequacy of ITC facilities and, in case malfunctions have arisen, they present the plan of action for their resolution, specifying the realization times;
- h) commit themselves to timely inform the Ministry of important breaches to the rules and procedures set up by themselves and of abnormal trading conditions;

i) admit to listing all outstanding Italian Government bonds issued on the domestic market and admit to trading a suitable number of dealers able to guarantee importance to list and trade prices;

l) commit themselves to sign, together with the Ministry, according to the procedures of the markets managerial decree, the appropriate agreement which governs the communication, prompt and continuous, of the data relative to the activity of listing and trading of Italian Government bonds;

m) commit themselves to timely inform the Ministry of decisions to admit, suspend and exclude from trading dealers and Italian Government bonds.

11. The Ministry will include in the list those regulated markets and MTFs acceptable to assess specialists' activity, as per paragraph 2, letter c), whose management companies or persons that manage them request it, having verified the satisfaction of the conditions of paragraph 10.

12. Non-conformity to the prerequisites of paragraph 10, which compromises the regular and efficient functioning of the wholesale Government bond market, entails cancellation from the list. The companies that manage regulated markets and the persons that manage MTFs excluded for these reasons cannot re-apply for inclusion in the list before two years after the date of exclusion.

13. The Ministry shall set up a public procedure with a frequency of no less than two years to select regulated markets and MTFs to include in the list, according to the procedures set out in the markets managerial decree.

14. The Ministry chooses from the list, according to objective criteria and as per the procedures and frequency given in the markets managerial decree, the regulated markets and the MTFs in which to assess the specialists' activity mentioned in paragraph 2, letter c).

15. The specialists, the companies managing regulated markets and those who manage the MTFs referred to in paragraph 14 shall transmit, periodically and upon request, to the Ministry and the Bank of Italy data and information about the activity carried out on the Italian Government bond markets. For its assessment the Ministry may request additional data to the Bank of Italy with regard to the activity carried out by the specialists in wholesale trading venues, residing in Italy.

(3) See also *Managerial Decree 1 March 2011*.

TITLE V

Transparency requirements for wholesale trades in Government bonds

Article 24 *Pre- and post-trade transparency requirements for regulated markets and MTFs for Government bonds*

1. The management companies and those who manage wholesale MTFs for Government bonds shall establish and maintain, as part of their rules, adequate pre- and post-trade transparency requirements regarding the bonds admitted to trading on the systems managed, taking into account the structural characteristics of the market, the type of the bonds traded, the size of the transactions and the type of dealers.

2. The pre- and post-trade information determined pursuant to paragraph 1 shall be made public in a manner which is easily accessible and on reasonable commercial terms.

Article 25 *Pre- and post-trade transparency requirements for systematic internalisers*

1. The persons who intend to undertake the activity of wholesale systematic internalisation with respect to Government bonds, in compliance with the definition and criteria of *Directive 2004/39/EC* and *Regulation No. 1287/2006/EC*, shall establish and maintain adequate transparency requirements regarding said bonds, also differentiated according to the structural characteristics of the market, the type of bonds traded, the size of the transactions and the type of dealers.

2. The pre- and post-trading information determined pursuant to paragraph 1 shall be made public on reasonable commercial terms and in a manner which is easily accessible.

Article 26 *Post-trade transparency requirements for qualified persons*

1. The qualified persons who conclude wholesale transactions in Government bonds admitted to trading on Italian regulated markets, outside a regulated market or an MTF or a systematic internaliser, shall make public at least the following information:

- a) the date and time of the transaction;
- b) the identification details of the financial instrument;
- c) the volume and price of the transaction concluded.

2. For those transactions with a value above five hundred thousand euros the qualified persons shall disclose at least the information regarding the day and time of trading, the financial instrument's identification and the price as well as if it is a transaction above the threshold indicated in the present paragraph.

3. The information referred to in paragraph 1 shall be made public by the end of the working day following the conclusion of the transaction. The information shall be made public on reasonable commercial terms and in a manner which is easily accessible.

4. In the case of transactions concluded outside a regulated market or an MTF, the obligation referred to in paragraph 1 is fulfilled by the seller, unless otherwise agreed between the parties.

5. The management companies may provide access, on reasonable commercial terms and in a non-discriminatory manner, to the instruments they employ for disclosing post-trade

information to the qualified persons required to disclose the information referred to in paragraph 1.

Article 27 *Disclosure of pre- and post-trade information*

1. The pre- and post-trade information shall be made public and accessible to investors through one of the following channels:

- a) the facilities of a regulated market or an MTF;
- b) third party facilities;
- c) proprietary facilities.

2. The management companies, the persons who manage MTFs and qualified persons shall inform the Bank of Italy and Consob within 15 days of the entry into force of this decree, and thereafter within 7 days of any change, of the distribution channel used for pre- and post-trade information.

TITLE VI

Final and transitional provisions

Article 28 *Final and transitional provisions*

1. With the entry into force of the present decree, the main dealers included in the list of specialists in Government bonds as per *Article 3 of Ministerial Decree No. 219 of 13 May 1999* and *Article 33 of the consolidated law on legislative and regulatory dispositions on public debt (Decree of the President of the Republic No. 398 of 30 December 2003)*, are automatically included in the list mentioned in *Article 23*, paragraph 1.

2. Within ten months from the date of entry into force of the present decree, the Ministry, pursuant to *Article 23*, paragraph 13, shall begin a public procedure to select regulated markets and MTFs admissible for the assessment of specialists' activity as per *Article 23*, paragraph 2, letter c).

3. In the course of the selection procedure mentioned in paragraph 2, the assessment of specialists' activity, as at letter c), paragraph 2 of *Article 23*, is carried out in a transitional regime according to the dispositions contained in *Article 3 of Ministerial Decree No. 219 of 13 May 1999*, in *Article 33 of the consolidated law on legislative and regulatory dispositions on public debt (Decree of the President of the Republic No. 398 of 30 December 2003)* and in the decree of the Director General of Public Debt No. 74997 of 23 December 2008 and subsequent amendments and additions.

4. The present regulation repeals, without prejudice to the transitional application regime recalled in the preceding paragraph 3, the regulatory dispositions mentioned in *Articles 31 to 39 of the consolidated law on legislative and regulatory dispositions on public debt*

(Decree of the President of the Republic No. 398 of 30 December 2003), and also repeals and substitutes Ministerial Decree No. 219 of 13 May 1999, and the Decree of the Director General of the Treasury of 26 February 2007.

The present decree, provided with the State's seal, shall be included in the Official Collection of laws and decrees of the Italian Republic. All concerned shall have to comply with it and make it be complied with.