



The Interministerial Committee for Credit and Savings

Having regard to Article 53, paragraph 1, subparagraph *d*) of Legislative Decree 385 of 1 September 1993 (the 1993 Banking Law), which establishes that the Bank of Italy, in compliance with the resolutions of the Interministerial Committee for Credit and Savings (the Credit Committee), shall issue general regulations with regard to administrative and accounting procedures and internal control mechanisms;

Having regard to Article 67, paragraph 1, subparagraph *d*) of the same decree, which for the purpose of carrying out consolidated supervision establishes that the Bank of Italy, in compliance with the resolutions of the Credit Committee, shall, by way of general or specific regulations, issue instructions to the parent undertaking concerning the banking group as a whole or its components with regard to administrative and accounting procedures and internal control mechanisms.

Considering the importance of organizational arrangements in ensuring the competitiveness of intermediaries and their ability to manage risks efficiently, safeguarding their market reputation and contributing to ensuring and maintaining their stability over time;

Considering the importance of the autonomy of banks in selecting the organizational arrangements most appropriate to their operating needs;

Considering the approach the Bank of Italy has taken heretofore in establishing general guidelines for banks in their decisions concerning organizational and accounting arrangements and internal controls;

Considering that the supervisory statistical reports that banks must submit already require banks to comply with minimum standards for accounting procedures;

In view of the need to established unitary and comprehensive regulations governing administrative procedures and internal controls;

Acting on a proposal from the Bank of Italy;

ISSUES

the following Resolution

The Bank of Italy, having regard to the recommendations formulated at the international level concerning risk management by banks, shall issue supervisory instructions concerning minimum organizational requirements for the following sectors, based on the general principles established for each of them:

- with regard to internal control mechanisms, the Bank of Italy shall issue instructions to ensure that banks establish internal control, auditing and administrative/accounting validation units that, operating with a view to functionality and efficiency, contribute to sound operational performance;
- with regard to the central importance of lending for banks, the Bank of Italy shall issue regulations requiring banks to establish internal methods for the selection, monitoring and management of credit risks. With specific regard to lending to persons within the bank, banks shall

Resolution of the Interministerial Committee for Credit and Savings of 2 August 1996 "Implementation of Article 53, paragraph 1, subparagraph *d*) of Legislative Decree 385/93 concerning administrative and accounting procedures and internal control mechanisms" (published in the *Gazzetta Ufficiale della Repubblica Italiana* no. 200 of 27 August 1996), as amended by the resolution of 23 March 2004 (published in the *Gazzetta Ufficiale della Repubblica Italiana* no. 99 of 28 April 2004).

The Italian text alone is authentic.

adopt procedures to prevent conflicts of interest. In particular, such procedures shall be based on the principle that the person authorizing such transactions may not be a subordinate;

- with regard to the expansion of banks' operations in the securities and foreign exchange field, the Bank of Italy shall issue instructions requiring the banks to establish structures to measure, control and manage market risks;
- with regard to activities in segments characterized by a high degree of complexity and innovation, the Bank of Italy shall issue regulations setting minimum conditions for operating in such segments, with special regard to organizational requirements and methods for assessing risk profiles;
- with regard to branches abroad, the Bank of Italy shall establish rules governing their operations, with special regard to their strategic policies as well as the type and frequency of the related controls;
- with regard to the issuing and management of means of payment, including electronic payment instruments, the Bank of Italy shall establish the precautions that banks shall take in this field. In particular, banks shall not accept post-dated cheques as collateral for lending transactions or, in any case, negotiate such instruments except for immediate collection.

The Bank of Italy shall issue instructions to the parent undertakings of banking groups requiring compliance with the instructions implementing the above provisions within the group as a whole and at the companies belonging to it.

The Bank of Italy may establish minimum organizational requirements to ensure the transparency and proper conduct of banks in their relations with customers. Minimum requirements associated with prudential supervision instruments or necessary for the performance of off- or on-site supervision may also be established.



The Minister for the Economy and Finance

Chairman of the Interministerial Committee for Credit and Savings

Having regard to Legislative Decree 385 of 1 September 1993 (the 1993 Banking Law);

Having regard to Article 53, paragraph 1, subparagraph *d*) of the 1993 Banking Law, which establishes that the Bank of Italy, in compliance with the resolutions of the Interministerial Committee for Credit and Savings (the Credit Committee), shall issue general regulations with regard to administrative and accounting procedures and internal control mechanisms;

Having regard to Article 67, paragraph 1, subparagraph *d*) of the 1993 Banking Law, which for the purpose of carrying out consolidated supervision establishes that the Bank of Italy, in compliance with the resolutions of the Credit Committee, shall, by way of general or specific regulations, issue instructions to the parent undertaking concerning the banking group as a whole or its components with regard to administrative and accounting procedures and internal control mechanisms;

Having regard to Article 107, paragraph 2 of the 1993 Banking Law, which establishes that the Bank of Italy, in compliance with the resolutions of the Credit Committee, shall issue directions to financial intermediaries entered in the special register concerning administrative and accounting procedures and internal control mechanisms;

Having regard to the regulations governing administration and control set out in Book V of the Civil Code, which permit companies to choose, by way of the provisions of their bylaws, between a system that envisages a board of directors and a board of statutory auditors (the traditional structure), a system that envisages a management board and a supervisory board (the two-tier structure) and a system the envisages a board of directors, within which an internal management control committee is established (the one-tier structure);

Having regard to the regulations governing controls set out in Book V of the Civil Code that distinguish between control of administration and the accounting control entrusted to an external auditor;

Having regard to Articles 52, paragraph 1, and 112, paragraph 1 of the 1993 Banking Law, pursuant to which the bylaws of banks and financial intermediaries entered in the special register, regardless of the administrative and control system adopted, shall assign the control body the necessary duties and powers for informing the Bank of Italy of any irregularities in the management of banks or financial intermediaries or a violation of the provisions governing banking or financial intermediation;

Having regard to Article 114-*quater* of the 1993 Banking Law, pursuant to which electronic money institutions shall be subject to the provisions, *inter alia*, of Articles 52 and 53 of the Banking Law;

Having regard to the resolutions of the Credit Committee of 25 July 2000 and 23 March 2004 concerning the administrative and accounting procedures and internal control mechanisms of banks

Decree of the Minister for the Economy and Finance no. 1419 of 5 August 2004 "Organization and corporate governance of banks, financial intermediaries entered in the special register referred to in Article 107 of the 1993 Banking Law and electronic money institutions"; published in the *Gazzetta Ufficiale della Repubblica Italiana* no. 200 of 26 August 2004.

The Italian text alone is authentic.

and financial intermediaries entered in the special register, as well as the resolution of 4 March 2003 concerning the prudential supervision of electronic money institutions;

Considering the importance of organizational arrangements in ensuring the competitiveness of intermediaries and their ability to manage risks efficiently, safeguarding their market reputation and contributing to ensuring and maintaining their stability over time;

Considering the need to establish regulations governing the tasks and power of the corporate bodies of banks, financial intermediaries entered in the special register and electronic money institutions in order to ensure sound and prudent management, without prejudice to the entrepreneurial autonomy of the persons subject to supervision;

Acting on a proposal from the Bank of Italy;

As a matter of urgency, pursuant to Article 3, paragraph 2, of the 1993 Banking Law;

ISSUES

the following Decree

The organizational arrangements and the structure of the tasks and powers of the corporate bodies of banks and banking groups shall be suitable to ensuring the sound and prudent management of the intermediaries in a context of transparent conduct. Accordingly, banks shall establish organizational and corporate governance arrangements such that:

- the administrative and control model selected shall ensure the efficiency of operations and the effectiveness of controls. The model shall be consistent with the ownership structure and the degree of involvement of the bank in the risk capital market, the size, complexity and strategies of the bank, and the organization of the bank and any group to which it may belong;
- management, executive and control tasks shall be allocated in a manner that fosters dialogue within the bank, ensuring a balance of powers among the various corporate bodies;
- reporting flows shall be sufficient to give each corporate body and its members access to the information necessary for them to carry out their tasks in an effective and informed manner;
- the management of risks by the competent corporate bodies shall be informed and consistent with company strategies;
- the powers and responsibilities of each decision-making level shall be specified precisely, including by way of the establishment of a clear system for the internal delegation of powers;
- the number and qualifications of members of the corporate bodies shall be appropriate to the operational and control needs of the individual banks and sufficient to permit the efficient performance of their tasks;
- compensation and incentive mechanisms for directors and management shall not encourage management decisions that are inconsistent with the interests and long-term strategies of the bank;
- the accounting control system shall be appropriate for the size, operational complexity and financial situation of the bank both in terms of the professional skills and experience of the auditor and the interaction and coordination between the latter and the control body and control functions.

With regard to the non-traditional administrative and control systems, in order to ensure the effectiveness of the control functions assigned to corporate bodies and the substantive equivalence of the tasks and powers necessary to interact with the supervisory authorities, banks shall:

- adopt appropriate precautions in their bylaws, regulations and organizational arrangements to ensure that the joint performance of management and control functions by the same body does not prejudice the correct and regular conduct of business;
- expressly assign the control bodies the tasks and powers, including tasks and powers additional to those envisaged on an ordinary basis, necessary for the full and effective performance of the requirement to report any irregularities in the management of banks or a violation of the provisions governing banking;
- ensure that the number and qualifications of the members of the corporate bodies are sufficient to permit the effective performance of their management and control tasks, without prejudice to the specific features of the alternative organizational systems.

The Bank of Italy shall issue instructions implementing this decree, requiring, *inter alia*, banks and parent undertakings of banking groups to prepare a plan regarding their overall corporate governance arrangements.

For the financial intermediaries entered in the special register referred to in Article 107 of the 1993 Banking Law and for electronic money institutions, the Bank of Italy may issue supervisory instructions that comply with the general principles established with this decree, taking account of the specific features of the individual categories of intermediary.

This decree shall be published in the *Gazzetta Ufficiale della Repubblica Italiana*.

Rome, 5 August 2004

THE MINISTER: D. SINISCALCO