



# *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 Directives 2006/48/EC and 2006/49/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions and to the capital adequacy of investment firms and credit institutions, to be transposed into national law by 31 December 2006;

Having regard to the Decree Law adopted by the Council of Ministers on 22 December 2006 amending inter alia the 1993 Banking Law in order to transpose the aforementioned directives;

Having specific regard to the following provisions of the 1993 Banking Law:

- Article 53, paragraph (1), subparagraphs (a), (b), (d) and (d-*bis*), and Article 67, paragraph (1), subparagraphs (a), (b), (d) and (e), which establish that the Bank of Italy, in compliance with the resolutions of the Interministerial Committee for Credit and Savings (the Credit Committee), shall issue regulations for banks and banking groups concerning, inter alia, capital adequacy, the limitation of risk in its various forms, administrative and accounting procedures and internal control mechanisms as well as disclosure requirements in such areas;
- Articles 53(2) and 67(2), which establish that the regulations issued by the Bank of Italy may provide that certain transactions shall be subject to the authorization of the Bank of Italy;
- Articles 53(2-*bis*) and 67(2-*bis*), which establish that the regulations issued by the Bank of Italy concerning the capital adequacy of banks and banking groups may permit the use of: a) assessments of credit risk issued by an external company or entity, establishing the requirements for such persons and the related procedures for verification by the Bank of Italy; b) internal risk measurement systems for calculating capital requirements, subject to the prior authorization of the Bank of Italy. For banks and banking groups subject to supervision on a consolidated basis by an authority of another Member State, such authority shall be the competent authority for the decision in the absence of the adoption of a joint decision with the Bank of Italy within six months of the submission of the application for authorization;
- Article 59(1)(b), under which the Bank of Italy, in compliance with the resolutions of the Credit Committee, shall establish the characteristics of

Decree of the Minister for the Economy and Finance of 27 December 2006 "Transposition of the new regulations governing the capital of banks"; published in the *Gazzetta Ufficiale della Repubblica Italiana* no. 17 of 22 January 2007.

**The Italian text alone is authentic.**

holdings acquired by “financial companies” for the purposes of defining the notion of financial companies within the scope of the regulations governing banking groups;

- Article 60(1)(b), under which a banking group shall be composed of a parent financial company and the banking, financial and instrumental companies it controls, where such companies include at least one bank and the banking and financial companies are of decisive importance, as established by the Bank of Italy in compliance with the resolutions of the Credit Committee;
- Article 107(2), 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 capital adequacy and the limitation of risk in its various forms, administrative and accounting procedures and internal control mechanisms, as well as disclosure requirements in such areas;
- Article 107(2-*bis*), which establishes that the directions issued by the Bank of Italy pursuant to Article 107(2) shall permit financial intermediaries entered in the special register to use: a) credit risk assessments issued by external companies or entities provided for by Article 53(2-*bis*)(a) of the 1993 Banking Law; b) internal risk measurement systems for calculating capital requirements, subject to the prior authorization of the Bank of Italy;

Having regard to the urgent decree of the Treasury Minister – Chairman of the Credit Committee no. 436154 of 7 December 1991 containing criteria for assessing the decisive importance of banking, financial and instrumental companies among those controlled by the parent undertaking;

Having regard to the decree of the Treasury Minister – Chairman of the Credit Committee no. 242630 of 22 June 1993 concerning the despecialization of credit institutions and medium- and long-term lending;

Having regard to the Credit Committee resolution of 12 January 1994 concerning regulatory capital and the solvency ratio of banks and banking groups;

Considering the advisability of adopting measures to transpose the aforementioned directives within the time limits established for their transposition in the interim before said decree law enters into force, reserving the right to re-examine them after its ratification;

Acting upon a proposal from the Bank of Italy;

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

ISSUES  
the following Decree

Article 1  
*(Scope of application)*

1. The banking groups, the banks and the financial intermediaries specified in Article 8 shall establish and maintain capital against the various forms of risk and comply with the other obligations provided for in this Decree, in accordance with the implementing regulations issued by the Bank of Italy in compliance with the provisions of Community law.
2. The regulations referred to in paragraph 1 may provide for less restrictive prudential rules concerning capital requirements and the concentration of risks to be applied to banks belonging to a banking group that complies with the requirements on a consolidated basis.

Article 2  
*(Banking groups)*

1. The Bank of Italy shall establish the characteristics of the holdings acquired by companies for the purposes of defining these as financial companies of significance for the regulations governing banking groups and shall establish the criteria for determining the decisive importance of the banks and financial companies controlled by a parent financial company for the purposes of determining the existence of a banking group, having regard to the need to supervise the group and all its components effectively and to limit the burden imposed on persons subject to supervision.
2. For the purposes of paragraph 1, the regulations shall establish inter alia appropriate criteria:
  - a) to ensure, in harmony with Community law, that a single holding company shall not act as both a parent company of a banking group and a mixed-activity holding company, as defined by Article 1(1)(v) of Legislative Decree 142 of 30 May 2005 concerning financial conglomerates;
  - b) to allow, in coordination with insurance regulations, the unambiguous identification of the predominance of banking holdings over insurance holdings for the purposes of the inclusion of the holding company in the banking group.

### Article 3

#### *(Capital requirements for credit risk and counterparty risk)*

1. The regulations referred to in Article 1 shall govern the determination of capital requirements for credit exposures using calculation methods that take account of the risk of the counterparty, the technical form of the exposure and the use of risk mitigation techniques.

2. In order to calculate the requirements referred to in paragraph 1, banks may use the credit assessments made by specialized external entities. The regulations referred to in Article 1 shall govern, in harmony with Community law and taking account of the recommendations formulated at the European level, the requirements for such entities and the procedures for recognition of the assessments rendered by them for regulatory capital purposes, establishing:

- a) that such entities
  - shall be legal persons;
  - shall have significant experience in performing credit assessments;
  - shall have an excellent international reputation or are able to demonstrate that a significant number of banks having their registered offices in various areas of the country plan to use their ratings within the scope of the standardized approach;
  - shall ensure the accuracy of the information provided, including by means of certification by a third party;
  - shall establish procedures for adequate disclosure of conflicts of interest;
- b) the cases in which the use of unsolicited ratings shall be allowed;
- c) the possibility of recognizing an external credit assessment institution taking into account evaluations carried out in cooperation with other EU supervisory authorities or on the basis of the recognition granted by another EU supervisory authority.

3. In order to determine the requirements referred to in paragraph 1, the data collected and the models utilized by the bank or banking group may be used. The regulations referred to in Article 1 shall establish organizational and quantitative requirements for internal systems used for such purposes and shall make their use for regulatory capital purposes subject to prior authorization by the Bank of Italy.

4. The regulations referred to in Article 1 shall establish the legal, financial and organisational conditions and requirements for the recognition for regulatory capital purposes of risk mitigation instruments and techniques, establishing methods for reducing capital requirements for exposures and regulating the procedures for the calculation of capital requirements in respect of securitization operations.

5. Banks participating in an institutional protection scheme established on the basis of a contractual agreement to provide mutual protection against liquidity and insolvency risks with a view to preventing or avoiding crises at each of such banks may be exempted from the application of capital requirements for credit exposures within the scheme. The regulations referred to in Article 1 shall establish the requirements for such exemption and shall specify conditions to ensure the compatibility of such systems with the rules governing banking crises and the performance of supervisory functions.

6. The prudential treatment envisaged for exposures to banks shall also apply to the exposures of a bank or a banking group to the financial intermediaries referred to in Article 8 or to exposures guaranteed by them.

7. The regulations referred to Article 1 shall govern, for regulatory capital purposes, the guarantees issued by the collective loan guarantee consortia referred to in Article 13 of Decree Law 269 of 30 September 2003, ratified with amendments by Law 326 of 24 November 2003, taking account of the legal form of these entities and the characteristics of the guarantees issued.

#### Article 4

##### *(Capital requirements for market risk)*

1. The regulations referred to in Article 1 shall govern the determination of capital requirements for risks associated with changes in interest rates, foreign exchange rates, the prices of financial instruments and commodities, as well as the settlement of transactions involving financial instruments, currencies or commodities.

2. In order to determine the capital requirements referred to in paragraph 1, the data collected and the models utilized by the bank or banking group may be used. The regulations referred to in Article 1 shall establish organizational and quantitative requirements for internal systems used for such purposes and shall make their use for regulatory capital purposes subject to prior authorization by the Bank of Italy.

#### Article 5

##### *(Capital requirements for operational risks)*

1. The regulations referred to in Article 1 shall govern the determination of capital requirements for operational risk, defined as the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events,

including legal risk. Such regulations may establish that the use of different regulatory methods for calculating the requirements shall depend upon the size or operational specialization of the bank or of the banking group.

2. In order to determine the requirements referred to in paragraph 1, the data collected and the models utilized by the bank or banking group may be used. The regulations referred to in Article 1 shall establish organizational and quantitative requirements for internal systems used for such purposes and shall make their use for regulatory capital purposes subject to prior authorization by the Bank of Italy.

#### Article 6

##### *(Supervisory review process)*

1. The regulations referred to in Article 1 shall govern the scope and requirements of the internal process with which the persons specified in Article 1 shall assess their overall capital adequacy, including with regard to risks other than those covered by the requirements calculated in accordance with the preceding articles. For this purpose, the regulations shall take account of the size, characteristics and operational complexity of banks and banking groups and may provide for simplified methodologies to be used by smaller and less complex intermediaries.

2. The provisions of paragraph 1 shall establish the minimum frequency with which the internal assessment process is to be conducted and shall govern requirements for reporting to the Bank of Italy in order to permit a review of the process and the assessment of the capital adequacy of banks and of banking groups, as well as the adoption of specific measures pursuant to Articles 53(3)(d) and 67(1) and (2-ter) of the 1993 Banking Law.

#### Article 7

##### *(Disclosure)*

1. The regulations referred to in Article 1 shall govern the disclosure of capital positions and risk exposures, as well as the methods employed to manage risks, providing for procedures that facilitate understanding and comparison of the information.

2. The regulations referred to in paragraph 1 shall specify the disclosure requirements necessary for the recognition, for regulatory capital purposes, of internal systems for calculating capital requirements for credit and operational risks, as well as of credit risk mitigation techniques.

3. The regulations referred to in paragraph 1 may establish disclosure requirements for large banks or parent undertakings belonging to a foreign banking group.

Article 8  
*(Equivalent supervision)*

1. The regulations of the Bank of Italy shall establish, on a gradual and proportionate basis, supervisory rules for financial intermediaries entered in the special register referred to in Article 107 of the 1993 Banking Law, or for certain categories of such intermediaries, equivalent to those envisaged for banks pursuant to this decree, taking account of the significance of the various forms of risk of the intermediaries in relation to the business they conduct and their organisational arrangements and size. The Bank of Italy's power to issue specific regulations for financial intermediaries in relation to the risks that characterize their operations shall not be affected.

2. For the purposes of paragraph 1, the Bank of Italy shall also issue regulations designed to achieve, on a gradual basis, the convergence of limits on the concentration of the exposures of financial intermediaries with those applicable to banks.

Article 9  
*(Branches of non-EC banks in Italy)*

1. The regulations referred to in Article 1 shall establish the application of the same prudential regulations for branches of non-EC banks in Italy as those applied to Italian banks that do not belong to a banking group. The Bank of Italy shall have the power to exempt, by means of general or specific measures, branches subject in their home countries to supervision equivalent to that envisaged for Italian banks from one or more prudential rules, having regard to reciprocity.

Article 10  
*(Transitional and final provisions)*

1. Without prejudice to the provisions of the following paragraphs, the following measures are repealed as of the date of entry into force of the Bank of Italy regulations implementing this Decree:

- Articles, 5, 6, 7 and 8 of the Credit Committee resolution of 12 January 1994 referred to in the recitals;
- the decree of the Minister of the Treasury of 22 June 1993 referred to in the recitals;
- the decree of the Minister of the Treasury of 7 December 1991 referred to in the recitals.

2. With regard to banks and banking groups that elect to continue to apply the prudential rules governed by the resolution referred to in the first indent of paragraph 1, the regulations established therein and those concerning market risks contained in the measure referred to in the second indent, together with the related implementing instructions of the Bank of Italy, shall remain in force until 1 January 2008. Until such date, the regulations issued by the Bank of Italy pursuant to Articles 3 to 7 shall not apply to such banks.

3. In order to ensure the gradual application of the new prudential rules, the Bank of Italy may establish that the regulations issued pursuant to the measures specified in paragraph 1, first and second indents, shall remain in effect.

4. This decree shall take effect as from the entry into force of the Decree Law approved by the Council of Ministers on 22 December 2006 referred to in the recitals.

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

Rome, 27 December 2006

THE MINISTER: PADOA SCHIOPPA