

MEASURE OF 27 OCTOBER 2020

Application to Italian institutions participating in the multi-currency interbank payments system Continuous Linked Settlement (CLS), governed by English law, of the provisions of Legislative Decree 210/2001, as amended, pursuant to Article 10(5) of the same legislative decree.

BANCA D'ITALIA

Having regard to Recital 7 of Directive 98/26/EC on settlement finality in payment and securities settlement systems, pursuant to which Member States may apply the provisions of the directive to their domestic institutions that participate directly in third-country systems and to collateral security provided in connection with participation in such systems;

Having regard to Article 10(5) of Legislative Decree 210/2001 ('Implementation of Directive 98/26/EC on settlement finality in payment and securities settlement'), as replaced by Article 1(508)(a) of Law 145/2018, pursuant to which Banca d'Italia can establish, via its own measure, the application of the provisions of said legislative decree to Italian institutions that participate in systems of a non-European Union country as regards the execution of transfer orders as referred to in Article 1(1)(m)(1) of the same decree;

Having regard to Article 146 of Legislative Decree 385/1993 (Consolidated Law on Banking), as amended by Article 35(18) of Law 11/2010;

Having regard to the agreement for the withdrawal of the United Kingdom from the European Union concluded in accordance with Article 50 of the Treaty on European Union, and approved by the Council of the European Union on 30 January 2020 ('Withdrawal Agreement');

Considering that, in accordance with the cited Withdrawal Agreement, since 1 February 2020 the United Kingdom has ceased to be part of the European Union and that the Agreement, in Part Four, provides for a transition period ending on 31 December 2020, during which time European Union law – including Directive 98/26/EC on settlement finality in payment and securities settlement systems, implemented in Italy with the cited Legislative Decree 210/2001 – continues to be applicable to and in the United Kingdom;

Considering that as at 1 July 2020, the deadline established in the Withdrawal Agreement for extending the transition period, no such decision had been taken;

Considering that the EU legislation on settlement finality of transfer orders referred to in Directive 98/26/EC shall apply until 31 December 2020 to the Continuous Linked Settlement (CLS) system, governed by English law and designated by the Bank of England pursuant to said directive;

Considering the need to guarantee the protections envisaged by Legislative Decree 210/2001 on the settlement finality of orders entered in a payment system to interbank foreign exchange orders entered by Italian participants in CLS, in order to limit the legal and financial risks associated with participation and their possible implications in terms of systemic risk;

Considering that the rules of CLS do not permit direct participation in the system in the absence of such protections, for risk-containment reasons;

Considering the interest in guaranteeing that Italian intermediaries are able to participate directly in international foreign exchange transaction settlement systems such as CLS;

Considering that Banca d'Italia's participation in the cooperative CLS Oversight Committee, on which the English regulator sits, enables it to verify the proper functioning of the system and to assess its rules and risk management consistent with the purposes of this measure.

HEREBY PROVIDES THAT

As of 1 January 2021, the provisions of Legislative Decree 210/2001, as amended, shall apply, in accordance with Article (10)(5) of said legislative decree, to Italian institutions that participate in the multi-currency settlement system Continuous Linked Settlement (CLS), governed by English law.

Rome, 27 October 2020

The Governor

Ignazio Visco