



*Commissione di Vigilanza
sui Fondi Pensione*

Last update June 2009

Briefing note

**on the rules applicable in Italy to cross-border activities
of Institutions for Occupational Retirement Provisions (IORPs)
established in other Member States of the European Union**

This note provides an overview of the Italian legislation that IORPs established in another Member State of the European Union must comply with when they are willing to operate in Italy on a cross border basis, under article 20 of the Directive 2003/41/EC (the Directive). The note has been compiled by COVIP according to the provisions of the Directive and to agreements made within CEIOPS – the European Committee of Supervisors of Institutions for Occupational Pensions. The note may not be exhaustive as regards the Social and Labour Law (SLL) applicable to guest IORPs. However, COVIP will regularly update the note according to the experience gained managing actual cases of cross-border activity in Italy by European IORPs ("guest IORPs"). Please also notice that the Italian legislation often does not clearly distinguish between SLL, prudential rules and disclosure rules.

* * *

The **Legislative Decree no. 252 of December 5th 2005** (the Decree) is the main piece of legislation applicable to IORPs in Italy. In particular, **Art. 15-ter, paragraphs 4, 5, and 6** of the Decree sets its provisions to be applied to IORPs established in other EU Member States willing to provide cross border services in Italy.

http://www.covip.it/documenti/PDF/LeggiDecreti/Decreto_252.pdf

Art. 15-ter, paragraph 4, of the Decree states a first group of provisions that guest IORPs must observe. These provisions are stated in the Decree and relate to membership, collective adhesion, funding, benefits, vesting, portability and transferability rules.

The Minister of Labour, acting in agreement with the Minister of the Economy, may set further requirements of SLL to be applied to guest IORPs. This power has not been used yet.

Art. 15-ter, paragraph 5, of the Decree states that guest IORPs are subject to the information rules set by COVIP. Currently they are the following:

- **COVIP regulation of 17 June 1998** (*Il Bilancio dei fondi pensione e altre disposizioni in materia di contabilità*) - last sentence of the paragraph 1.7
http://www.covip.it/documenti/PDF/Provvedimenti/D020116_02.pdf
- **COVIP regulation of 10 February 1999** (*Disposizioni in materia di trasparenza dei fondi pensione nei rapporti con gli iscritti*).
<http://www.covip.it/documenti/html/provvedimenti/D990210B01.htm>
- **COVIP regulation of 31 October 2006** (*Nota Informativa*)
http://www.covip.it/DocumentiConsultazione/Schema_di_nota_informativa.pdf
- **COVIP regulation of 31 January 2008** (*Progetto esemplificativo – stima della pensione complementare*)
http://www.covip.it/NEW/Progetto_esemplificativo_Gazzetta.pdf
- **COVIP regulation of 29 May 2008** (*Collocamento delle forme pensionistiche complementari*) - artt. 6, 7 and 10
http://www.covip.it/NEW/Regolamento_raccolta_adesioni.pdf

Art. 15-ter, paragraph 6, of the Decree states that guest IORPs are subject to the investment limits set by the Minister of the Economy, as regards the assets that correspond to the activities carried out in Italy. In particular, in application of art. 18, paragraph 7 of the IORP Directive, guest IORPs should observe the rules established for Italian IORPs as regards the concentration limits set in art.4, paragraph 2 of the Ministerial Decree 703/1996 (*Regolamento recante norme sui criteri e sui limiti di investimento delle risorse dei fondi di pensione e sulle regole in materia di conflitto di interesse*).

http://www.covip.it/documenti/PDF/LeggiDecreti/Z961121B01_02.pdf.