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**Overview of the rules applicable to cross-border activities
of Guest Institutions for Occupational Retirement Provisions (IORPs)
operating in Italy**

Disclaimer:

This note is intended to provide an overview of the Italian legislation and regulation 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 (“Guest IORPs”), under articles 11, 12 and 33 of the Directive (EU) 2016/2341 (the IORP II Directive); it also provides the links to the official texts. Please notice that the Italian legislation does not make a clear distinction between SLL, prudential provisions and disclosure rules.

The note has been compiled by COVIP in compliance with the provisions of the Directive and the agreements made within EIOPA – the European Insurance and Occupational Pensions Authority. This note is regularly updated according to any changes to the relevant national rules as well as to lessons learnt by managing actual cases of cross-border activity operated in Italy.

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The **Legislative Decree no. 252 of December 5th 2005 (the Decree)** is the main piece of legislation applicable to IORPs operating in Italy on a cross-border basis. In particular, **Art. 15-ter, paragraphs 1, 4 and 5** of the Decree sets the provisions to be applied to IORPs that are established in another EU Member State and that are willing to provide cross-border services in Italy. Art. 15-ter, paragraphs 4 and 5, also applies in case of cross-border transfers that result in a cross-border activity.

Link:

https://www.covip.it/sites/default/files/legislazione_fondi/decreto_legislativo_252_2005.pdf

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Art. 15-ter, paragraph 1, of the Decree states that IORPs of other Member States can bring, in Italy, the adhesion of employees which are covered by collective agreements.

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Art. 15-ter, paragraph 4, of the Decree indicates a first set of SLL provisions that Guest IORPs shall comply with. In particular, it makes reference to the provisions of the same Decree which regulate the following subjects: membership, collective adhesion, contribution, benefits, portability and transferability.

The same provision states that guest IORPs must comply also with COVIP's provisions specifying the information required by the Supervisory Authority for the purpose of verifying the compliance with the above mentioned rules, and the reporting - including that relating to individual members - required for the monitoring of the Italian supplementary pension system.

In addition, it states that DC pension schemes are required to appoint a depositary in accordance with Art. 7 of the Decree, which sets the relevant requirements/rules.

This Article also states that the Minister of Labour, acting in agreement with the Minister of the Economy and Finance, may identify any further requirements of SLL to be applied to Guest IORPs. This power has not been used so far.

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Art. 15-ter, paragraph 5, states that Guest IORPs are subject to the disclosure rules set by COVIP pursuant to the Decree.

The Decree includes several provisions relating to the disclosure of information to prospective members, members and beneficiaries:

- Art. 13-*bis* pertaining to the provision to members and beneficiaries of the general information on the pension scheme;
- Art. 13-*septies*, which states the principles to be applied by pension funds in the provision of information to prospective members, members and beneficiaries;
- Art. 13-*ter* pertaining to the information to be given to prospective members;
- Art. 13-*quater* pertaining to the periodical information to be given to members;
- Art. 13-*quinquies* pertaining to the information to be given to members during the pre-retirement phase;
- Art. 13-*sexies* pertaining to the information to be given to beneficiaries during the pay-out phase;
- Art. 6, paragraph 5 *quater* pertaining to the disclosure of the fund's investment choices and investment policy.

As regards COVIP's regulations, the disclosure rules in force are those provided with the following acts:

- **COVIP Regulation of 22 December 2020** (*Istruzioni di vigilanza in materia di trasparenza*), as amended by **COVIP Regulation of 25 February 2021** (*Modificazioni alla Deliberazione del 22 dicembre 2020 recante "Istruzioni di vigilanza in materia di trasparenza"*) and **COVIP Circolare of 21 December 2022** (*Adempimenti previsti dal*

Regolamento (UE) 2019/2088 e dal Regolamento delegato (UE) 2022/1288 in materia di informativa sulla sostenibilità nel settore dei servizi finanziari).

Links:

<https://www.covip.it/sites/default/files/provvedimenti/testo consolidato deliberazione 22 dicembre 2020 testo pulito.pdf>

<https://www.covip.it/sites/default/files/comunicazioni circolari/circolare 21 dicembre e 2022 prot n 5910 22.pdf>

<https://www.covip.it/normativa/fondi-pensione/atti-general-covip/esempi-nota-informativa-modulo-adesione>

<https://www.covip.it/normativa/fondi-pensione/atti-general-covip/esempi-prospetto-delle-prestazioni-pensionistiche-fase>

<https://www.covip.it/normativa/fondi-pensione/atti-general-covip/esempi-prospetto-caso-liquidazione-prestazioni-diverse>

<https://www.covip.it/normativa/fondi-pensione/atti-general-covip/esempi-prospetto-caso-liquidazione-prestazioni-capitale>

<https://www.covip.it/normativa/fondi-pensione/atti-general-covip/esempi-prospetto-delle-prestazioni-pensionistiche-0>

• **COVIP Regulation of 22 December 2020** (*Regolamento sulle modalità di adesione alle forme pensionistiche complementari*) – relevant provisions: Articles 3, 6, 8, 9,10 and 11.

Link:

<https://www.covip.it/sites/default/files/provvedimenti/deliberazione 22 dicembre 2020 0.pdf>

• **COVIP Regulation of 17 June 1998, integrated with regulation of 16 January 2002** (*Il bilancio dei fondi pensione e altre disposizioni in materia di contabilità*) – relevant provision: section 1.7, last sentence.

Link:

https://www.covip.it/sites/default/files/provvedimenti/D020116_02.pdf