



*Commissione di Vigilanza
sui Fondi Pensione*

Last update December 2016

**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 article 20 of the Directive 2003/41/EC (the IORP 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. In particular, **Art. 15-ter, paragraphs 4, 5, and 6** 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.

Link:

<http://www.covip.it/wp-content/uploads/A.016.Decreto-2529.pdf>

Art. 15-ter, paragraph 4, of the Decree states a first set of SLL provisions that Guest IORPs shall comply with. These provisions relate to membership, collective adhesion, funding, benefits, vesting, portability and transferability rules.

It is also stated 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.

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

At present, the disclosure rules in force are provided for in the following acts:

- **COVIP Regulation of 31 October 2006** (*Adozione degli schemi di statuto, di regolamento e di nota Informativa, ai sensi dell'art. 19, comma 2, lettera g), del decreto legislativo 5 dicembre 2005, n. 252*) and following amendments – relevant provisions: rules on “Nota Informativa”

Links:

<http://www.covip.it/?p=11275>

<http://www.covip.it/?cat=128>

- **COVIP Regulation of 25 May 2016** (*Regolamento sulle modalità di adesione alle forme pensionistiche complementari*) – relevant provisions: articles 1, 2, 5, 6, 7, 10, 12, 13, 14, 15 and 16.

Link:

<http://www.covip.it/?p=11281>

- **COVIP Regulation of 31 January 2008** (*Istruzioni per la redazione del documento “La mia pensione complementare”*), and following amendments – relevant provision: rules on the document “La mia pensione complementare”

Links:

<http://www.covip.it/?p=11270>

<http://www.covip.it/?p=9341>

<http://www.covip.it/?cat=129> - Examples based on the previous regulation, to be amended according to the provision in force since January 2017.

- **COVIP Regulation of 22 July 2010** (*Disposizioni in materia di comunicazioni agli iscritti*).

Links:

<http://www.covip.it/wp-content/uploads/Deliberazione2207201021.pdf>

<http://www.covip.it/?cat=144>

- **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:

http://www.covip.it/wp-content/uploads/D020116_02.pdf

Art. 15-ter, paragraph 6, of the Decree states that Guest IORPs, with regard to the assets corresponding to the activities carried out in Italy, are subject to the investment limits set in the Decree of the Minister of the Economy and Finance.

The relevant **Decree of 25 September 2014 no. 166** (*Regolamento di attuazione dell'articolo 6, comma 5-bis del decreto legislativo 5 dicembre 2005, n. 252, recante norme sui criteri e limiti di investimento delle risorse dei fondi pensione e sulle regole in materia di conflitti di interesse - G.U. 13/11/2014 n. 166*), article 2, paragraph 4, specifies that the rules which are provided for in article 5, paragraphs 1, 2, 3 and 6 of the same Decree do apply to Guest IORPs, with reference to the part of the assets referred to the adhesions collected in Italy.

Link:

<http://www.covip.it/wp-content/uploads/Decreto-Ministro-tesoro-n.166-del-2014.pdf>