



The Minister of Economy and Finance

Having regard to Law No 228 of 24 December 2012 laying down provisions for drawing up of the annual and multi-annual State budget ("Legge di stabilità 2013" – 2013 Stability Law);

Having regard, in particular, to Article 1, paragraph 500 of the above-mentioned Law No 228 of 2012, which provides that a Decree of the Minister of the Economy and Finance shall establish the procedures for applying the tax referred to in paragraphs 491 to 498 of Article 1, including any reporting obligations;

Having regard to Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision;

Having regard to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;

Having regard to Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive;

Having regard to Council Directive 2008/7/EC of 12 February 2008 concerning indirect taxes on the raising of capital;

Having regard to Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps;

Having regard to Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;

Having regard to Royal Decree No 267 of 16 March 1942 ("Regio Decreto 16 marzo 1942") approving the text of the Civil Code;

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Having regard to the Decree of the President of the Republic No 600 of 29 September 1973 on common rules for the calculation of income tax (“Decreto del Presidente della Repubblica concernente le disposizioni comuni in materia di accertamento delle imposte sui redditi”);

Having regard to the Decree of the President of the Republic No 917 of 22 December 1986 adopting the Consolidated Version of the Law on the Taxation of Revenue;

Having regard to Legislative Decree No 471 of 18 December 1997 concerning the reform of non-criminal tax penalties in the field of direct taxation, value added tax and tax collection, in accordance with Article 3(133)(q) of Law No 662 of 23 December 1996;

Having regard to Legislative Decree No 58 of 24 February 1998 which consolidates all provisions in the field of financial intermediation, pursuant to Articles 8 and 21 of Law No 52 of 6 February 1996;

Having regard to Legislative Decree No 170 of 21 May 2004 implementing Directive 2002/47/EC on financial collateral arrangements;

Having regard to the Regulation adopted by Consob Resolution No 11971 of 14 May 1999 implementing Legislative Decree No 58 of 24 February 1998 concerning the regulation of issuers;

Having regard to the Regulation adopted by Consob Resolution No 16190 of 29 October 2007 implementing Legislative Decree No 58 of 24 February 1998 concerning the regulation of intermediaries;

ISSUES **the following Decree**

Title I

General provisions

Article 1

(Definitions)

1. For the purposes of this Decree, paragraphs 491-499 are referred to in the corresponding paragraphs of Article 1 of Law No 228 of 24 December 2012.
2. For the purposes of this Decree, the following definitions shall apply:
 - a) TUF: the Consolidated Law on Financial Intermediation referred to in Legislative decree No 58 of 24 February 1998;
 - b) TUIR: the Consolidated Act on Income Taxes referred to in Presidential decree No 917 of 22 December 1986;
 - c) shares: stocks of companies belonging to one of the following types, even if falling into a special category, and regardless of the assignment of certain administrative or property rights: companies under Italian law known as “*società per azioni*”, “*società in accomandita per azioni*” and European companies referred to in Regulation (EC) No 2157/2001, as well as stakes of companies under Italian law known as “*società cooperative*” and “*mutue assicuratrici*”, unless the articles of incorporation stipulate that the laws for companies under Italian law known as “*società a responsabilità limitata*” pursuant to Article 2519, paragraph 2, of the Italian Civil Code, should apply;
 - d) participating financial instruments: the financial instruments referred to in Article 2346 of Civil Code and issued by companies listed under letter c), which assign certain administrative and property rights against contributions by shareholders or third parties, resulting in any form of participation of the stakeholder to the performance of the company or of some of its branches of business, including the financial instruments for participating to a single transaction referred to in Article 2447-ter, paragraph 1, letter e), of the same Code;
 - e) securities representing equity investment: depositary receipts in respect of shares and other certificates representing shares or participating instruments issued by companies resident in the Italian territory;
 - f) regulated markets and multilateral trading facilities: the markets and systems recognized pursuant to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004, relevant to the Economic European Area, as included in the list published in the

specific section of the European Securities and Markets Authority' website (<http://mifiddatabase.esma.europa.eu/>) for the purposes provided for in paragraph 2 of Article 13 of (EC) Regulation No 1287/2006 of the Commission, of 10 August 2006, provided that they are established in States and territories included in the list referred to in the Ministerial Decree issued in accordance with Article 168-*bis* of TUIR. In the case of the States to which the aforesaid provisions do not apply, regulated markets and multilateral trading facilities are considered those in regular operation and authorized by a National Public Authority with State supervision, including therein those recognized by CONSOB pursuant to Article 67, paragraph 2, of TUF, provided that they are established in States and territories included in the list referred to in the above Ministerial Decree.

Title II

Shares and other financial instruments subject to tax

Article 2

(Objective scope)

1. The tax referred to in Article 491 shall apply to the transfers of the ownership of securities and other financial instruments issued by companies resident in the State territory. For this purpose, residence shall be determined on the basis of the registered office. Additionally, the tax shall apply to the transfer of the ownership of securities representing equity investment, regardless of the place of residence of the issuer of the certificate and of the place where the contract has been concluded.
2. The transfers of the ownership of stakeholdings in collective investment undertakings ("OICR" in Italy), including the shares of open-ended investment companies included in the register referred to in Article 44 of TUF, shall be excluded from the scope of the tax.

Article 3

(Transfer of ownership)

1. For the purposes of the application of the tax referred to in paragraph 491, it is considered that transfers of ownership in the case of transactions relating to shares, participating financial instruments and securities representing equity investment admitted to central securities depositories, have taken place on the date of their settlement. Date of settlement shall mean the date of actual registration of the transfers following the settlement of the relevant transaction. Alternatively, the person liable to the payment of tax, subject to the taxpayer's consent, can assume the date of liquidation stipulated in the contract as the date of the transaction.
2. For transactions other than those referred to in paragraph 1, the transfer of ownership corresponds with the moment when its legal effect is produced.
3. For the purposes of paragraph 491, transfers resulting from the conversion of bonds into shares shall also be considered as transfers of ownership of shares or other participating financial instruments, even where they take place through the exchange or the refund of bonds with shares or other participating financial instruments. In the case of the transactions referred to in the preceding sentence, the transfer of ownership corresponds with the date the conversion has effect.
4. Transfers made through intermediaries buying in their name but on behalf of another person shall be deemed to be transfers of property only with regard to the person on behalf of whom the transfer has been made.

Article 4

(Value of the transaction)

1. The value of the transaction referred to in paragraph 491 is determined on the basis of the net balance of the transactions regulated daily, calculated for each liable person with reference to the number of securities traded on the same day and relating to the same financial instrument. The calculation of the net balance shall be made by the person liable for payment of the tax under Article 19. For this purpose, such person shall in the first place take into account separately purchases and sales, made on regulated markets or in multilateral trading facilities, as well as those made outside such markets. The tax base is the number of securities resulting from the algebraic positive sum of the final net balances multiplied by the weighted average price of the purchases made on a particular day.

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2. The term purchase price shall mean:

- a) in the case of spot market purchases, the spot exchange value paid for acquiring the securities;
- b) in the case of purchases of shares, participating financial instruments and the securities representing equity investment following settlement of the financial instruments referred to in paragraph 492, the fixed exercise (strike) value;
- c) in the case of conversions, exchanges or refunds of bonds, the value established in the issue prospectus;
- d) in all other cases, the value stipulated in the contract, or, failing that, the normal value determined under paragraph 4 of Article 9 of TUIR.

3. The purchases and sales excluded or exempt from the tax under Articles 15 and 16 of this Decree are not included in the calculation of the net balance values.

4. Where the same person carries out a number of transactions on the same trading day through several intermediaries, a single net balance may be calculated amounting to the algebraic sum of the balances relating to each intermediary, subject to a specific request of the taxpayer indicating a single intermediary liable for the payment of the tax. The intermediaries shall have the option not to consent to the taxpayer's request. The single net balance may be also calculated by the centralized management company referred to in article 80 of TUF upon request of the intermediaries liable for the payment of the tax. In this case, the centralized management company reports to the intermediary liable for the payment of the tax the net balance of the person liable for payment. The effectiveness of the option for the single net balance calculation is subject to acceptance by all intermediaries involved and to their transmission of the information necessary for the calculation.

5. In the case of acquisitions of shares, participating financial instruments and securities representing equity investment denominated in currencies other than the euro, the tax base shall be determined with reference to the exchange rates indicated on the website of the European Central Bank (<http://www.ecb.int/stats/exchange/eurofxref/html/index.en.html>) relating to the day of the purchase.

Article 5

(Persons liable to tax)

The tax is payable by the persons to which the ownership of shares, participating financial instruments and securities representing equity investment is transferred, regardless of their place of residence and the place where the contract is concluded.

Article 6

(Tax rate)

1. The tax rate for the transfers of ownership referred to in paragraph 491 is 0.2 per cent of the value of the transaction and is halved for the transfers taking place on regulated markets or in multilateral trading facilities. Such reduction of the tax applies also in the case of purchase of shares, participating financial instruments and securities representing equity investment through a financial intermediary, interposed between the Parties to the transaction, purchasing the above instruments on a regulated market or in a multilateral trading facility, provided that price, quantity and date of settlement of buying and selling transactions are the same under a pre-determined contract.
2. The reduction of the tax referred to in the preceding paragraph shall be granted as from the first day of the month following the inclusion of the market or facility in the list published on the website of the European Securities and Markets Authority, or, in all other cases, the first day of the month following the authorization and the start of supervision by the National Public Authority.
3. If the tax base is determined as the net balance between purchases and sales executed on regulated markets or in multilateral trading facilities, and other purchases and sales, the tax rate shall be equal to the average of the weighted rates by the number of securities purchased.

Title III

Derivatives and other securities

Article 7

(Objective scope)

1. The tax referred to in paragraph 492 shall apply to transactions on:
 - a) financial derivatives referred to in Article 1(3) of TUF, both traded on regulated markets or in multilateral trading facilities and subscribed or traded outside these markets, having as their underlying primarily one or more financial instruments referred to in paragraph 491 or the value of which depends primarily on one or more of these financial instruments;
 - b) transferable securities referred to in Article 1(1-bis)(c) and (d) of TUF giving the right to acquire or sell mainly one or more financial instruments referred to in paragraph 491, or giving rise to a cash settlement determined mainly by reference to one or more securities referred to in paragraph 491.

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2. The financial instruments and transferable securities referred to in the preceding paragraph are subject to tax provided that the underlying or reference value consists for more than 50 percent of the market value of the instruments referred to in paragraph 491 at the date of the entry into the contract. The part relating to the underlying or reference value represented by securities other than shares in companies and other securities equivalent to shares in companies, partnerships or other entities, and depositary receipts in respect of shares shall not be relevant for the purposes of this calculation.

Article 8

(Entry into the contract)

Transactions in derivative financial instruments and transferable securities referred to in Article 7 are subject to tax at the time of entry into the contract to be understood, respectively, as the time of signature, early cancellation (except when made by signing a new contract) or modification of the contract and as the time of transfer of ownership of such transferable securities. Modification of the contract shall mean a variation of its notional value, parties or maturity.

Article 9

(Notional value)

1. For the purposes of tax application, “notional value of the contract” shall mean:
 - 1) for stock index futures traded on regulated markets or in multilateral trading facilities, the number of standard contracts multiplied by the number of index points under which the contract is traded by the value assigned to the index point;
 - 2) for single stock futures traded on regulated markets or multilateral trading facilities, the number of standard contracts multiplied by the price of the futures by the standard contract size;
 - 3) for stock index options traded on regulated markets or in multilateral trading facilities, the number of standard contracts multiplied by the strike price expressed in index points multiplied by the value assigned to the index point;
 - 4) for stock options traded on regulated markets or in multilateral trading facilities, the number of standard contracts multiplied by the strike price multiplied by the standard contract size.

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- 5) for other options: where the underlying is - even indirectly - an index, the product of the number of index points multiplied by the strike price; where the underlying are, also indirectly, shares, the number of shares multiplied by the strike price; and where the underlying are - even indirectly - yields on shares or indices or measures taken from shares or indices, the amount according to which cash flows or maturity profile or economic result of the transaction are determined, calculated at the time the transaction has been concluded;
- 6) for forward contracts, where the underlying is - even indirectly - an index, the product of the forward unit value of the index and the number of units of the index under the contract; where the underlying are - even indirectly - shares, the number of shares multiplied by the forward price;
- 7) for swap contracts, the amount according to which the swap flows are determined - even indirectly - recognised upon conclusion of the transaction;
- 8) for financial contracts for difference, the value of the index or shares on which the contract's profits or losses - even indirectly - depend;
- 9) for warrants, the number of shares that the holder is entitled to buy or sell multiplied by the strike price;
- 10) for covered warrants composed of a single securitized option, with a single underlying and a single strike price, the quantity of the underlying on which the covered warrant's value - even indirectly - depends, multiplied by the strike price;
- 11) for covered warrants other than those under point 10, the average of the notional values referred to each underlying on which the covered warrant's value - even indirectly - depends; the notional value referred to each underlying is determined by multiplying the quantity of each underlying by the corresponding spot price; the average shall be weighted according to the quantities of each underlying;
- 12) for certificates composed of a single securitized option, with a single underlying and a single strike price, the quantity of the underlying on which the certificate's value - even indirectly - depends, multiplied by the strike price;
- 13) for other certificates, the average of the notional values referred to each underlying on which the certificate's value - even indirectly - depends; the notional value referred to each single underlying is determined by multiplying the quantity of each underlying by the corresponding spot price; the average shall be weighted according to the quantities of each underlying;

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- 14) for securities giving rise to a cash settlement determined by reference to shares and related yields, indices or measures, the amount according to which cash flows or maturity profile or economic result of the transaction are determined, calculated at the time of purchase and sale of securities;
- 15) for combinations of the above contracts or securities, the sum of the notional amounts of contracts and securities within the contract or security in question.
2. If the notional value is amplified due to the structure of the transaction, the actual notional value, equal to the reference notional value of the contract multiplied by the leverage effect, shall be determined. For contracts with a variable reference notional value, the reference value at the date in which the transaction has been concluded.
3. If the notional value of the instruments referred to in Article 7 of this Decree is represented also by instruments other than shares, participating financial instruments and securities representing equity investment, for the purpose of this paragraph, only the notional value of these shares, instruments and securities shall be taken into consideration.
4. If the financial instruments referred to in Article 7 of this Decree have – even indirectly – underlyings of different types, for the purpose of calculating the notional value, the average of the notional values relating to shares, participating financial instruments and securities representing equity investment shall be considered. The average shall be weighted according to the quantities of each underlying.
5. In the case of acquisitions of the instruments referred to in Article 7 of this Decree denominated in currencies other than the euro, the tax base shall be determined with reference to the exchange rates indicated on the website of the European Central Bank (<http://www.ecb.int/stats/exchange/eurofxref/html/index.en.html>) relating to the day the transaction has been concluded.
6. If the notional value is not determined according to the rules of this Article, for the purposes of determining the amount of tax, it is assumed to be equal to two million euro.

Article 10

(Persons liable to tax)

The tax is payable for the amount set out in Article 11 by both counterparties of the transactions on the financial instruments and transferable securities referred to in Article 7, regardless of their place of residence and the place where the transactions have been concluded .

Article 11

(Amount of the tax)

1. The tax for the transactions referred to in paragraph 492 shall be determined as set out in Table 3 attached to Law No 228 of 24 December 2012, and is reduced to 1/5 for transactions that are executed on regulated markets or in multilateral trading facilities. Such reduction of the tax applies also in the case of purchase of the instruments and transferable securities referred to in Article 7 of this Decree, through a financial intermediary interposed between the parties to the transaction, buying the above instruments on a regulated market or in a multilateral trading facility, provided that price, quantity and date of settlement of buying and selling transactions are the same under a pre-determined contract.
2. The reduction of the tax referred to in the preceding paragraph shall be granted as from the first day of the month following the inclusion of the market or facility in the list published on the website of the European Securities and Markets Authority, or, in all other cases, from the first day of the month following the authorization and the start of supervision by the National Public Authority.

Title IV

High-frequency trading

Article 12

(Objective scope)

1. The transactions executed on the Italian financial market are deemed to be high-frequency trading when they jointly have the following features:
 - a) they are generated by a computer algorithm that automatically determines the decisions relating to the sending, modification and cancellation of orders and of the relevant parameters with the exclusion of those used:
 - (1) for the performance of the market-making activity referred to in paragraph 494, last sentence, letter a), provided that orders placed by such algorithms come from specific desks devoted to market-making activities as set out in Article 16, paragraph 3, letter a);

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(2) solely for the fulfillment of clients' orders to comply with best execution requirements provided by Article 21 of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004;

b) they occur at intervals not exceeding half a second. This interval is calculated as the time between the placing of an order for purchase or sale and the subsequent modification or cancellation of the same order by the same algorithm.

2. Italian financial market means the regulated markets and multilateral trading facilities authorized by CONSOB pursuant to Articles 63 and 77-bis of TUF.

Article 13

(Application of the tax)

1. The tax is calculated on a daily basis and is payable where - in a single trading day - the ratio between cancelled and modified orders, and the sum of entered and modified orders exceeds 60 per cent, with reference to the single financial instruments. For this purpose, only the orders cancelled or modified within half a second are taken into consideration, as defined in Article 13. The tax is applied, for each trading day, on the value of the cancelled and modified orders exceeding the 60 per cent threshold.

2. For shares, participating financial instruments and securities representing equity investments, as well as the transferable securities referred to in Article 7, paragraph 1, letter b) of this Decree, the ratio specified in the above paragraph is calculated according to the number of securities included in the single orders that have been entered, modified or cancelled. The tax shall be applied to the product of the number of securities exceeding the threshold specified in paragraph 1 multiplied by the weighted average price of the purchase and sale orders or related modifications thereof for the specific financial instrument in the trading day.

3. For derivative financial instruments referred to in Article 7, paragraph 1, letter a), the ratio referred to in the preceding paragraph shall be calculated based on the number of standard contracts included in the single orders entered, modified or cancelled. The tax shall be applied to the product of the number of standard contracts exceeding the threshold referred to in paragraph 1 multiplied by the weighted average equivalent value of purchase and sale orders or related modifications thereof for the specific financial instrument in the trading day. Equivalent value means, in the case of options, the premium specified in the contract multiplied by the number of shares making up the standard contract; in the other cases, the notional value of the standard contract.

Article 14

(Persons liable to tax)

The tax is payable by persons that, by means of the algorithms provided in Article 12, enter purchase and sale orders and the related modifications and cancellations referred to in the preceding Article.

Title V

General provisions

Article 15

(Exclusion from the tax)

1. The following transactions are excluded from the scope of the tax referred to in paragraphs 491 and 492:
 - a) the transfer of the ownership of financial instruments referred to in paragraph 491 or the change in the ownership of contracts and transferable securities referred to in paragraph 492 taking place by inheritance or gift;
 - b) the transactions specified in Article 5, paragraph 2, letter b), of Council Directive 2008/7/EC of 12 February 2008;
 - c) the transactions of issue and cancellation of transferable securities referred to in paragraph 492, including the repurchase of securities by the issuer;
 - d) the purchase of the ownership of newly issued shares also through the conversion of bonds or the exercise of an option by the shareholder, or if it constitutes a mode of settlement of the transactions referred to in paragraph 492 of the above Law;
 - e) the transfer of the ownership of the instruments referred to in paragraph 491 in connection with securities financing transactions as a result of a lending or borrowing or a repurchase or reverse repurchase transaction, or a "buy-sell back" or "sell-buy back" transaction. Likewise excluded from the scope of the tax is the transfer of ownership of the above instruments in the framework of financial collateral transactions arising from an arrangement under which a collateral-provider transfers full ownership of financial collateral to a collateral-taker for the purpose of securing or otherwise covering the performance of relevant financial obligations, including the repayment at the end of the collateral. In such case, the tax applies if the transfer of ownership becomes final, or in

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the case of enforcement of the collateral (whether it takes place by sale or appropriation of securities), set-off of the collateral against the relevant financial obligations or application of the collateral in discharge of the relevant financial obligations or for other reasons involving – in any case – a permanent transfer of the ownership. Collateral consisting of securities or participating financial instruments, or other temporary transfers that do not involve the transfer of ownership shall also be excluded from the application of the tax.

- f) the transfer of the ownership of shares traded on regulated markets or in multilateral trading facilities issued by the companies mentioned in the list referred to in Article 18, even if it constitutes a mode of settlement of the transactions referred to in paragraph 492. The exclusion also operates for transfers taking place outside markets and multilateral trading facilities;
- g) the transfer of the ownership of the instruments referred to in paragraph 491 and the transactions referred to in paragraph 492 effected by companies between which there exists a relationship of control referred to in Article 2359, first paragraph, No 1) and No 2), and second paragraph of Civil Code;
- h) the transfer of the ownership of the instruments referred to in paragraph 491, or the change of ownership of contracts and transferable securities referred to in paragraph 492, arising from restructuring operations under Article 4 of Council Directive 2008/7/EC of 12 February 2008.

2. Similarly, the tax does not apply:

- a) to purchases and transactions entered into by a financial intermediary interposed between two parties acting as a counterparty to both sides, purchasing on one hand, and selling on the other, securities or other financial instruments under a pre-determined contract whereby price, quantity and date of settlement of purchase and sale transactions are the same for both transactions, except the cases where the person to whom the financial intermediary transfers the title or the financial instrument does not fulfil its obligations;
- b) to the purchases of the instruments referred to in paragraph 491 and to the transactions referred to in paragraph 492 entered into by systems interposing in the purchases or in the transactions for the purposes of clearing and collateral of said purchases or transactions. To that end, reference is made to the authorised or recognised entities under Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July

2012 that interpose themselves in a transaction on financial instruments for the purposes of clearing and collateral; for those countries where the above Regulation is not in force, reference is made to equivalent foreign systems which are authorized and supervised by a national public authority, provided that they are established in States and territories included in the list referred to in the Ministerial Decree issued in accordance with Article 168-*bis* of TUIR.

Article 16

(Exemptions)

1. There shall be exempt from the tax referred to in paragraphs 491 and 492:
 - a) transactions having as their counterpart:
 - 1) the European Union or the European institutions, the European Atomic Energy Community;
 - 2) the bodies covered by the Protocol on the Privileges and Immunities of the European Union or the European Central Bank and the European Investment Bank;
 - 3) the central banks of the Member States of the European Union and the central banks and organizations managing also the official reserves of other States;
 - 4) bodies or international organizations established in accordance with international agreements enforced in Italy; a specific decision of the Director of the *Agenzia delle Entrate* may give notice of the above agreements;
 - b) transactions in relation to products and services classed as “ethical” or “socially responsible” pursuant to Article 117-*ter* of TUF and its implementing rules, which shall be understood to mean:
 - 1) the transactions involving products for which a prospectus has been drafted according to the models in Annex 1B of the regulation adopted by CONSOB with Resolution No 11971 of 14 May 1999 and later amendments, including the additional information provided for by Article 89, paragraph 1 of the Regulation adopted by CONSOB with Resolution No 16190 of 29 October 2007 and later amendments;
 - 2) the transactions effected as part of a portfolio management service referred to in Article 1, paragraph 5, letter d) of the above Decree, where the contract concluded with the customer includes the additional information provided for by Article 89, paragraph 1 of the regulation adopted by CONSOB with Resolution No 16190 of

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29 October 2007, and later amendments, provided that the investments comply with the qualitative and quantitative criteria laid down by the Decree of the Minister of Economy and Finance.

2. In relation to the transactions referred to in paragraph 1, the tax is not payable by either party.
3. There shall also be exempt from tax:
 - a) the transactions effected during market making activities as defined in Article 2, paragraph 1, letter k) of Regulation (EC) No 236/2012 of the European Parliament and of the Council of 14 March 2012, and in document ESMA/2013/158 “*Final Report on Guidelines on the exemption of market-making activities and primary market operations under Regulation (EU) 236/2012 of the European Parliament and of the Council on short selling and certain aspects of Credit Default Swaps*”, provided that the person acting in the course of this activity has been granted the exemption under Article 17, paragraph 1 of the Regulation by the authority specified in Article 17, paragraphs 5 and 8 of the Regulation. If there is no such authorization referred to in the preceding sentence, the person acting in the course of market-making activities is entitled to the exemption, provided that such person has submitted a specific request to CONSOB according to the procedures to be issued by this public authority; the applicant shall in any case prove to comply with the same requirements and conditions provided for in the above Regulation and Guidelines;
 - b) the transactions effected in the course of liquidity assistance activities within the framework of accepted market practices, approved by the financial market authority under Directive 2003/6/EC of the European Parliament and of the Council of 20 January 2003 and under Commission Directive 2004/72/EC of 29 April 2004. The non-application of the tax is limited exclusively to the operations and transactions carried out within the activities described above. There shall be included only the cases in which the person making the transactions and operations referred to in paragraph 491 and 492 has concluded a contract directly with the company issuing the security.
4. For the transactions referred to in paragraph 3, the exemption is exclusively granted to those persons carrying on market-making activities and providing liquidity assistance as indicated therein and only to the transactions effected in carrying on such activities; the tax may be applied to the counterparty, within the limits and under the conditions laid down by paragraph 494, first sentence.
5. The tax referred to in paragraphs 491 and 492 shall not apply to pension funds subject to supervision under Directive 2003/41/EC and to compulsory social security institutions, established

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in the Member States of the European Union and in the States which are parties to the Agreement on the European Economic Area listed in the Decree of the Minister of Economy and Finance issued pursuant to Article 168-*bis* of TUIR. The exemption shall apply also to persons and entities constituted solely by the funds referred to in the preceding sentence.

Article 17

(Identification of issuing companies with average capitalisation lower than 500 million euro)

1. By 10 December of each year, CONSOB shall draw up and send to the Ministry of Economy and Finance the list of companies complying with the capitalisation limit as of paragraph 491, last sentence, and whose shares are traded on a regulated market or in an Italian multilateral trading facility.
2. The companies resident in the State territory complying with the capitalisation limit as of paragraph 1 and whose shares are traded on a regulated market or in an Italian multilateral trading facility shall send to the Ministry of Economy and Finance, by the 10th of December of each year, a written communication certifying the value of their own capitalisation, enclosing thereto an *ad-hoc* certification issued by the relevant regulated market under Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 or by the manager of a multilateral trading facility, if more relevant in terms of exchange value.
3. Based on the information received under the preceding paragraphs, the Ministry of Economy and Finance shall draw up and publish on its website, by the 20th of December of each year, the list of companies resident in the State territory for the purposes of the exemption referred to in paragraph 491, last sentence. For the first year of application, the list of the companies referred to in the preceding sentence is attached to this Decree.
4. Average capitalisation means the simple average of the daily capitalisations calculated according to the relevant weighted average prices, with reference to each trading day, except those days for which the aforesaid prices are not consistent with the number of securities in circulation as, for example, in the case of capital increases, and those on which there has been no trading. In the case of securities suspended from trading, capitalisation is calculated with reference to the last available month. If the issuing company has several categories of traded shares, the evaluation is to be referred to the whole set of categories.

Article 18

(Non-deductibility of the tax)

The tax laid down in paragraphs 491, 492 and 495 is not deductible for the purposes of income taxes, including their substitute taxes, as well as for the purposes of the Italian regional tax on productive activities.

Article 19

(Payment of the tax)

1. The tax shall be paid by banks, trusts and investment companies referred to in Article 18 of TUF which are involved in the execution of the transactions set forth in paragraphs 491, 492 and 495, as well as the notaries involved in the drawing up or authentication of deeds concerning the above-mentioned transactions. Article 64, third paragraph, of Presidential Decree No 600 of 29 September 1973 shall apply to the above entities. In the other cases the tax shall be paid by the taxpayer.
2. The tax shall be paid:
 - a) for the transfers of ownership as of paragraph 491, by the 16th day of the month following the one of the transfer of ownership as established under Article 3;
 - b) for the transactions as of paragraph 492, by the 16th day of the month following the one of the conclusion of the contract, as established under Article 8;
 - c) for the trading transactions as of paragraph 495, by the 16th day of the month following the one of the dispatch date of the cancelled or modified order.
3. Intermediaries and other persons involved in the transaction shall not pay the tax if the taxpayer has certified that the transaction falls within the exclusion cases set forth in Article 15 or within the exemption cases laid down in Article 16.
4. Where more persons among those indicated in paragraph 1 are involved in the transaction execution, the tax is paid by the one who receives the order to execute the transaction directly from the purchaser or the final counterparty. Where the purchaser or the final counterparty is a financial intermediary, the latter pays directly the tax due. Persons based in States or territories with which Italy has no agreements in force for the purposes of the exchange of information or the assistance in the collection of tax credits, listed in a specific decision of the Director of the *Agenzia delle Entrate*, that are involved for any reason in the execution of the transaction, are considered in all respects as purchasers or final counterparties of the order of execution.

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5. The persons referred to in paragraph 494, who are obliged to pay the tax, can apply to the Centralised Management Company referred to in Article 80 of TUF. For such purpose, they shall appoint an *ad-hoc* proxy for the Centralised Management Company and send all necessary information for the calculation of the tax and the compliance with the relevant tax return obligations. The delegating persons are held in any case responsible for the correct payment of the tax and for the instrumental requirements as of paragraph 6. The Centralised Management Company shall make the payment of the tax by the 16th day of the second month following the date of the transaction. The persons obliged to pay the tax shall annually comply with the tax return obligations for the transactions laid down in paragraph 2, including excluded and exempt ones, according to the terms and arrangements set forth in a decision of the Director of the *Agenzia delle Entrate*, to be adopted under paragraph 500. The same decision shall provide for the arrangements to pay the tax and the relevant instrumental requirements.

6. The persons referred to in paragraph 1 are exempt from the obligation to file a tax return if the tax amount is lower than fifty euro.

7. The intermediaries and the other non-residents involved in the transaction, having a permanent establishment in Italy under article 162 of TUIR, shall comply with the obligations deriving from the tax application through the permanent establishment. The intermediaries and the other non-residents having no permanent establishment in Italy can appoint a tax representative among the persons indicated in Article 23 of Presidential Decree No 600 of 29 September 1973. Such representative shares the same terms and responsibilities as non-resident persons for the obligations deriving from the application of the tax.

8. In the other cases, the aforesaid obligations, including the payment of the tax, shall be complied with directly by the foreign persons who, if obliged to file the tax return, shall be identified according to the arrangements laid down in a decision of the Director of the *Agenzia delle Entrate*.

Article 20

(Application of penalties)

1. In case of non-payment or delayed payment of the tax, penalties provided for in Article 13 of Legislative Decree No 471 of 18 December 1997 are applied exclusively against the persons having to comply with such obligation and also liable for the payment of the tax.

In case of insufficient or omitted payment of the tax, the Tax Administration has the authority to recover the tax and the relevant interests also against the taxpayer concerned.

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2. As regards the breaches concerning the tax return, its contents and the instrumental requirements as of Article 20, paragraph 6, the penalties set forth in Legislative Decree No 471 of 18 December 1997 shall apply.

Article 21

(Tax implementation in 2013)

1. The tax on the transfer of ownership of shares and other participating financial instruments, as well as of securities representing the aforesaid instruments and the transfer of ownership of shares as a result of the conversion of bonds, shall apply to regulated transactions as from the 1st of March 2013, if traded after the 28th of February.

2. The tax on high-frequency trading transactions referred to in paragraph 495 concerning the instruments provided for in paragraph 491, shall apply to the orders sent as from the 1st of March 2013.

3. The tax on the transactions as of paragraph 492 shall apply to the contracts entered into, modified or cancelled in advance as from the 1st of July 2013.

4. The tax on high-frequency trading transactions referred to in paragraph 495 concerning financial derivatives and transferable securities as of paragraph 492 shall apply to the orders sent as from the 1st of July 2013.

5. The tax referred to in paragraph 491 is set at the rate of 22% for 2013. The rate is reduced at 0.12 per cent for the transfers taking place on regulated markets and in multilateral trading facilities.

6. The tax as of paragraphs 491 and 495, only as for the transfers involving shares and other participating financial instruments and securities representing equity investment executed until the end of the third calendar month following the date of publication of this Decree, shall be paid by the 16th of July 2013.

Article 22

(Refunds)

A decision of the Director of the *Agenzia delle Entrate* shall set the arrangements for the refund of the tax in the case in which the taxpayer proves, unequivocally, that the same transaction has been subjected to multiple taxation.

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This Decree shall be sent to the controlling bodies and shall be published in the Official Gazette of the Italian Republic.

Rome,

The MINISTER