

AMENDMENT TO THE RULES OF THE MARKETS AND RELATED INSTRUCTIONS

**CAPITAL INCREASES WITH SIGNIFICANT DILUTIVE EFFECTS:
EXERCISE OF OPTION RIGHTS WITH ROLLING MODEL AND
AMENDMENT TO THE IDEM MARKET**

By resolution no. 19704 of 3rd August 2016, Consob has approved the amendments to the Rules of the Markets managed and organized by Borsa Italiana (the “**Rules**”) already approved by Borsa Italiana Board of Directors on the 20th July 2016 concerning, inter alia, the handling of capital increases with significant dilutive effects.

Moreover Consob announced, with communication of 7th October 2016, that the date of entry into force of these changes should take into account of the date of the implementation of the exercise model the so called rolling model of option rights, foreseen for the 15th December 2016.

Consequently, the amendments to the Rules of the Markets that will enter into force on the **15th December 2016** are shown below, together with the related changes to the Instructions to the Rules (the “**Instructions**”).

These changes concern, in addition to the model of the exercise of option rights in cases of capital increases with significant dilutive effects, the elimination of some rules of the IDEM market, which had been introduced in order to minimize the distorting effects of the capital increases with significant dilutive effects.

The changes in question have been subject to consultation with the market and as a result of this process the definition of capital increase with strong dilutive effect has been amended in order to better specify the timing of the communication by Borsa Italiana to the market of the classification of these transactions. Furthermore, still in response to the consultation process, it has been pointed out that the application of the so called rolling model is limited to the highly dilutive transactions on the basis of calculations made by Borsa Italiana, not being provided for issuers the possibility of using this model on a voluntary basis.

Capital increases having a strong dilutive effect have been the focus of considerable attention on the part of the Authorities, the Market and intermediaries, since 2009. They are characterised by the considerable entity of the offering, and by the high ratio between the number of shares to be issued and the number of shares outstanding, with a high difference between the underwriting price of the new shares and the shares’ price on the last *cum* trading day; these characteristics can be summarized by low values of adjustment factor K ($K = P \text{ theoretical ex-rights} / P \text{ cum}$). The characteristics described produce, during the trading of the option rights of individual transactions, abnormal fluctuations in the prices of securities ex-rights and significant short-selling positions regarding the settlement of securities.

As is commonly known, Consob began to deal with this question in 2010, with the publication of a “Position Paper” and presenting the situation as follows: *“In view of the market situation, characterized by the on-going economic downturn and by the greater volatility of trading on secondary markets, issuers that were able to obtain new capital sought to use different levers in order to “entice” their own shareholders to participate in the rights issues. Some of them, in particular, carried out shareholders rights offerings, characterized by sizable quantities of shares to be issued with respect to the number of outstanding shares, with the goal of maximizing the value of the discount for potential underwriters relative to the market value of the outstanding shares.”*

In April 2016, with the publication of the *Esiti delle Consultazioni*, Consob indicated the rolling model as *“the only solution that guarantees resolution of price anomalies”*, and instructed the market management company to proceed to amend the rules in this sense, and, in the month of October 2016, with Consob Communication no. 0088305 provided the information regarding the “Implementation of the rolling model”.

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With these amendments, the **Market Rules** are amended in order to provide:

- for the qualification of “capital increases with significant dilutive effects”, whereby such means those capital increases with an adjustment coefficient K less than or equal to 0.3, estimated on the basis of the reference price of the day the terms of the capital increase are announced (and in any case no earlier than one week prior to the launch of the transaction);
- for the issuers’ obligation to publish the final conditions of the capital increase with option rights, at least two market business days prior to the date of launch of the transaction, and thus by the Wednesday prior to the launch of the increase;
- in the case of “capital increases with significant dilutive effects”, for the issuers’ obligation to make available the new shares originating from exercise of the option rights on each day of the period of offering of the capital increase, starting from the moment at which the option rights are entered to the securities account of the Central Securities Depository Service, and in a manner permitting said Service to manage exercise of rights on each day of the offering period;
- for a rule of conduct applicable to intermediaries, and designed to ensure that they manage exercise of option rights, upon instructions from their own clients, on each day of the offering period, starting from the moment when the option rights are entered to the securities account of the CSD Service. The timing for exercise of said rights shall be governed by the CSD Service.

In view of the foregoing, as pointed out by Consob with the *“rolling model resolves the problem of the scarcity of shares during the period of offering of new shares, and market dynamics – in particular the activity of the arbitrageurs - are able to eliminate the aforesaid price anomalies”*.

Consequently, there are no longer any reasons for the regulatory intervention of Borsa Italiana seen at the start of 2016, when in order to curb the derivatives market’s impact on the performance of the prices of the underlying coinciding with capital increases having a strong dilutive effect, options contracts were reviewed, and provision was made for:

- (i) suspension of the early exercise on option contracts, from the first ex trading day of the underlying share and until the end of the capital increase period; and

- (ii) suspension of the admission to trading of new contracts whose maturities precede the last day for the exercise of the option rights of the capital increase (i.e. weekly options).

Said amendments, introduced at the time, are thus now cancelled.

Likewise, the provisions establishing that from the first ex trading day, intermediaries are obliged not to increase the open interest on contracts whose expiry precedes the end of the period of exercise of the option rights of the capital increase, and that the market makers are not required to comply with listing obligations, are also cancelled.

Furthermore, the methods of managing exercise of option rights that Monte Titoli intends to implement, shall make it possible to make those securities originating from exercise of the option rights, available for settlement on the same day on which the right is exercised. This shall make it possible to overcome the problem of the scarcity of securities as of the first ex trading day.

It should be noted that the aforementioned amendments have been requested, on the basis of Section 73, paragraph 4, of the Consolidated Law on Finance, by CONSOB.

The updated texts of the Market Rules and Instructions will be published on Borsa Italiana's website (www.borsaitaliana.it).

The changes of the Market Rules and Instructions are shown below.

RULES OF THE MARKETS

PART 1

GENERAL PROVISIONS

Article 1.3 (Definitions)

Capital increase having a strong dilutive effect

Means the capital increase presenting a ratio of the theoretical ex price to the cum price of the underlying share, estimated on the basis of the reference price of the day on which the terms of the capital increase are announced, that is less than or equal to 0.3. Where the terms of the event are disclosed more than a week ahead of the start of the event, the ratio is calculated at the beginning of the week before the one the event is expected to start. The qualification of capital increases with significant dilutive effects shall be notified to the market in a Notice by Borsa Italiana.

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TITLE 2.6 OBLIGATIONS OF ISSUERS

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Article 2.6.6 (Obligations of issuers in the event of operations affecting trading in financial instruments)

1. In the event of operations, other than the payment of dividends, involving the detachment of coupons representing rights from listed financial instruments or splits or reverse splits of financial instruments, issuers must make the start of such operations coincide with one of the coupon-detachment days established by Borsa Italiana in the market calendar and comply with the related requirements laid down in the Instructions.

2. Issuers must fix a record date according to article 83-terdecies of Consolidated Law on Finance for the purpose of dividend payment coinciding with the first settlement day following one of the coupon-detachment days in the calendar specified in the Instructions and comply with the related constraints and requirements laid down therein. Shares on which a dividend is to be paid shall be traded ex, i.e. without the right to the dividend, from the coupon-detachment date preceding by one settlement day the date fixed for the record date. The payment date is established by the issuer in the manner that the date coincides with the trading day following the record date, except in case of particular circumstances notified to the market by the issuer which are inherent the nature of dividend (for example, where the possibility is foreseen for the persons entitled to the dividend payment, to opt for a payment in shares, instead of cash payment, the so-called script dividend) or have an impact on the timing of the dividend payment (e.g. payment in different tranches) or are due to the fact that the instrument is traded on more than one market.
3. Issuers of units of AIFs must fix a record date according to article 83-terdecies of Consolidated Law on Finance for the purpose of payment of operating profits coinciding with the first settlement day following one of the coupon-detachment days in the calendar specified in the Instructions and comply with the related requirements laid down therein. The payment date is established by the issuer in the manner that the date coincides with the settlement day following the record date, except in case of particular circumstances notified to the market by the issuer that could affect the timing of the payment of the income (e.g. payment in different tranches) or are due to the fact that the instrument is traded on more than one market.
4. **In the event of *Capital increases having a strong dilutive effect*, the Issuer must make the financial instruments, originating from exercise of the option rights, available on each day of the period of offering of the capital increase, starting from the moment when the option rights are entered to the securities account of the Central Securities Depository Service, and in a manner permitting the CSD Service to manage exercise of rights on each day of the offering period.**

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TITLE 3.3

RULES OF CONDUCT AND RELATIONSHIP BETWEEN MARKET INTERMEDIARIES AND BORSA ITALIANA

Article 3.3.1

(Rules of conduct)

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5. On the expiration days of derivative contracts, market intermediaries are required to enter orders in the MTA market for financial instruments underlying derivative contracts relative to the partial or complete closing out of arbitrage transactions, volatility trading or hedging transactions within the time limit established in the Instructions.
6. Market intermediaries may enter and modify the orders referred to in paragraph 5 beyond the time limit established in the Instructions provided their characteristics with regard to price, quantity and method of execution are such that they do not increase the absolute value of the difference between the theoretical opening price and the last control price of the individual instruments to which they refer.
7. In the segments of the ETFplus market characterized by the trading method specified in Article 4.3.12, market intermediaries are required to enter orders in the manner and within the time limits established in the Instructions.

8. Market intermediaries shall collect the orders of their customers in time to comply with the time limit referred to in paragraph 5 and 7.
9. Market intermediaries must put effective forms of control in place to monitor their contractual positions and avoid situations likely to hinder orderly trading and the regular settlement of contracts in the settlement service. Intermediaries must implement strategies to ensure the settlement of contracts. If they find they are unable to settle contracts on a financial instrument within the prescribed time limits, intermediaries may make new sales of such instrument for own or customer account only if they have forms of cover that ensure the availability of the financial instruments on the settlement day for the transactions.
10. Intermediaries may not accept orders involving instruments traded in the professional segment of the MIV market that do not come from professional investors, unless the rules or bylaws of the reserved AIF do not provide for participation in the reserved AIF of non-professional investors as well for the amount envisaged in Article 14 of Decree of Ministry of Finance and Economy Affairs n. 30 of 5 March 2015, or a similar provision of foreign law transposing the Directive 2011/61/UE. Exception also is made for sell orders coming from shareholders at the date of transfer of an investment company to the Professional Segment. This exception shall apply only to shares of the investment company held at the date of the transfer to the professional segment and exclusively for sales. Without prejudice to Article 3.4.1 et seq. of the Rules, Borsa Italiana shall not verify whether investors are qualified to operate in the professional segment. Operators undertake to also enforce similar rules of conduct on authorized persons from whom orders are received.
11. **In the event of *Capital increases having a strong dilutive effect*, intermediaries when specifically required by their customers, must manage exercise of option rights, on each day of the offering period, starting from the moment when the option rights are entered to the securities account of the Central Securities Depository Service.**

INSTRUCTIONS TO THE RULES

TITLE IA.2

OBLIGATIONS OF ISSUERS AND METHODS OF QUOTING PRICES

SECTION IA.2.1

EXTRAORDINARY CORPORATE ACTIONS, COUPON DETACHMENTS, PERIOD AMOUNTS

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Article IA.2.1.10

(Disclosure requirements for extraordinary corporate actions)

On the occasion of extraordinary corporate actions the issuer shall inform the market, in the manner specified in Article 2.7.1 of the Rules: ~~of the timetable for the transaction and, where provided for, of the authorization by the competent authority to publish the offering prospectus by 12:00 on the second trading day prior to the start of the transaction. If the final conditions of the extraordinary corporate action are not known at the time of such~~

~~disclosure, they must be announced, in the manner referred to in Articles 2.7.1 of the Rules, not later than the second trading day prior to the start of the transaction.~~

- a. ~~by the third trading day prior to the start of the transaction, of the timetable for the transaction;~~
- b. ~~by 12:00 on the trading day prior to the start of the transaction, of the authorization by the competent authority to publish the offering prospectus, where provided for and not available within the terms as per letter a).~~

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TITLE IA.3

PARTICIPATION OF INTERMEDIARIES IN THE MARKETS

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CHAPTER IA.3.2 – RULES OF CONDUCT

Article IA.3.2.1

(Restrictions on the handling of trading orders)

1. In the segments of the ETFplus market characterised by the trading method referred to in Article 4.3.12 of the Rules market intermediaries shall enter their trading orders at least five minutes before the end of trading and, after this time limit has been reached, to abstain from modifying or cancelling the orders entered. Appointed intermediaries are required to enter, in order to fulfil the undertaking referred to in Article 4.3.12, paragraph 3, of the Rules, only named orders; such orders may be entered until the end of trading.
2. On the expiration days of FTSE MIB index futures, FTSE MIB index mini-futures, FTSE MIB index options, stock options and stock futures contracts, intermediaries shall enter their trading orders in the MTA market for financial instruments that are included in the FTSE MIB index or are the underlying of stock options or stock futures at least five minutes before the end of the opening pre-auction phase where the orders refer to:
 - a) the closing of arbitrage transactions involving FTSE MIB index futures, FTSE MIB index mini-futures or stock futures contracts;
 - b) volatility trading;
 - c) hedging transactions involving FTSE MIB index futures, FTSE MIB index mini-futures, stock futures, FTSE MIB index options or stock options contracts.
3. ~~In the IDEM market, in case of highly dilutive capital increase, as defined below, from the first ex trading day of the underlying share, intermediaries have not to increase the open interest on the options and futures contracts that have maturity before the last day of the exercise of the option rights of the capital increase.~~

~~For the purpose of this paragraph “highly dilutive capital increases” are defined capital increases that present a ratio between the theoretical price ex and the cum price of the underlying share, estimated on the basis of the closing price of the day on which the terms of the capital increase are announced, pursuant to article IA.2.1.10 of these Instructions, is less than or equal to 0.3.~~

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TITLE IA.9 DERIVATIVES MARKET (IDEM)

Chapter IA.9.1 - Derivative contracts admitted to trading

Article IA.9.1.7 (Stock options)

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10. The right to early exercise referred to in the preceding paragraph shall be suspended:
- a) in the session preceding the day for the distribution of dividends on the share underlying the contract;
 - b) in the session preceding the start of capital operations involving the share underlying the contract;
 - c) on the last day of a tender offer or execution of the purchase obligation referred to in Article 108 of the Consolidated Law on Finance in relation to the underlying financial instrument;
 - d) ~~in the cases referred to in paragraph 15, letter a);~~
 - d) e) Where Borsa Italiana adopts a measure suspending the financial instrument underlying the contract it shall specify in the measure whether the exercise of the right is also suspended.
11. The contract shall provide for delivery at the exercise date of the underlying securities. For the purpose of exercising options at maturity, the management company of the clearing and guarantee system referred to in Article IA.9.2.10 shall compare the reference price of the share underlying each contract recorded on the last day of trading with the exercise price of the positions still open, and send the buyer a proposal for the automatic exercise or abandonment of the maturing option. Buyers may notify the management company of the clearing and guarantee system referred to in Article IA.9.2.10 up to 08.15 on the maturity day of their intention to abandon or exercise the options for which such company has proposed, respectively, the exercise or the abandonment. Beyond such time limit, the maturing options shall be automatically abandoned or exercised on the basis of the foregoing proposals.
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15. ~~In the case of significant dilutive capital increases of the underlying shares, as defined below, in order to ensure the orderly trading, clearing and guarantee and settlement of contracts, at the closing of the last cum trading day of the underlying shares, Borsa Italiana shall provide:~~
- a) ~~the suspension, for the period of the capital increase, of the early exercise;~~
 - b) ~~the suspension of the admission to trading of the new contracts whose maturities precede the last day for the exercise of the option rights of the capital increase.~~

~~For the purpose of this paragraph “highly dilutive capital increases” are defined capital increases that present a ratio between the theoretical price *ex* and the *cum* price of the underlying share, estimated on the basis of the closing price of the day on which the terms of the capital increase are announced, pursuant to article IA.2.1.10 of these Instructions, is less than or equal to 0.3.~~

Chapter IA.9.3 - Market makers

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Article IA.9.3.23

(Exoneration from quotation obligations)

1. Borsa Italiana may temporarily relieve market makers from the quotation obligations for derivative instruments traded in the IDEM Equity segment in the following circumstances:
 - a) suspension from trading of the underlying financial instrument or suspension from trading of a significant percentage of the financial instruments included in the index where the underlying is an index;
 - b) anomalous movements in the volatility of the price or bid-ask spread of the underlying financial instrument or anomalous movements in the volatility of the underlying index;
 - c) any other circumstances preventing the regular performance of market making.
- ~~2. Market makers in the IDEM *Equity segment* are relieved from the quotation obligations from the first *ex* trading day of the underlying share, in case of highly dilutive capital increase, as defined below.~~

~~For the purpose of this paragraph “highly dilutive capital increases” are defined capital increases that present a ratio between the theoretical price *ex* and the *cum* price of the underlying share, estimated on the basis of the closing price of the day on which the terms of the capital increase are announced, pursuant to article IA.2.1.10 of these Instructions, is less than or equal to 0.3.~~
3. ~~2.~~ Borsa Italiana may temporarily relieve market makers from the quotation obligations for derivative instruments traded in the IDEX and AGREX segments in the following circumstances:
 - a) anomalous movements in the volatility of the derivative instrument;
 - b) any other circumstances preventing the regular performance of market making.
4. ~~3.~~ In relation to IDEX segment, Borsa Italiana reserves the right to temporarily relieve market makers from the quotation obligations for a maximum of 10 non-consecutive trading days per year in case of communication of temporary organizational difficulties that affect the continuity of the function.