



### **Regulation: Bonds of the series**

**“Olivetti 1.5% 2001-2010 convertible Bonds with premium upon redemption”**

**now “Telecom Italia 1.5% 2001-2010 convertible Bonds with premium upon redemption”**

### **NOTICE**

The merger of Telecom Italia S.p.A. into Olivetti S.p.A. became effective on August 4, 2003.

As per the merger notarial deed n. 17586/5336 of July 29, 2003 of Notary Piergaetano Marchetti, Olivetti took the name of “Telecom Italia S.p.A.” and redistributed its share capital existing at that date (net of shares cancelled following withdrawal) through the replacement – among other things – of all its outstanding ordinary shares in the ratio of 0.471553 “new” Telecom Italia ordinary shares (nominal value of Euro 0.55) for each “old” Olivetti ordinary share (nominal value of Euro 1.00).

Therefore, as of the date of effectiveness of the merger, in compliance with point 5 of the above mentioned merger deed, the Regulation of the Bond of the series “Olivetti 1.5% 2001-2010 convertible Bonds with premium upon redemption” is updated in the following parts (if not differently defined, the words used with initial capital letter in the current Notice have the same meaning given in the Regulation):

the Bond is called “Telecom Italia 1.5% 2001-2010 convertible Bonds with premium upon redemption”;  
the Conversion Ratio of the Bonds in shares, in compliance with article 6 of the Regulation (originally equal to 1 Olivetti ordinary share for each Bond presented for conversion) is modified in n. 0.471553 Telecom Italia ordinary share for each Bond presented for conversion.

It is agreed that, in case the exercise of the conversion right of the Bonds involves the right to receive a not whole number of Conversion Shares, a whole, rounded down, number of Conversion Shares will be assigned to the Bondholder, in addition to the counter value in cash of the fractional part, calculated on the basis of the simple arithmetical average of the listing prices of Telecom Italia ordinary share, recorded on the MTA during the month preceding the month in which the Conversion Notice was made for conversion, unless the application of the adjusted coefficient – if any - indicated by Borsa Italiana S.p.A..

**Regulation:**  
**Bonds of the series "Olivetti 1.5% 2001-2010 convertible  
Bonds with premium upon redemption"**



# Regulation: Bonds of the series "Olivetti 1.5% 2001–2010 convertible Bonds with premium upon redemption"

## 1. Principal amount, denomination and form of notes

(a) The Olivetti 1.5% 2001–2010 convertible bond with premium upon redemption for a total of Euro 4,079,803,958 consists of a maximum of 4,079,803,958<sup>(1)</sup> notes (the "**Notes**") convertible into ordinary Olivetti S.p.A. shares issued by Olivetti S.p.A. ("**Olivetti**" or the "**Issuer**") at par, at a price of Euro 1 each.

(b) The Notes shall be held, in accordance with the regulations in force, in dematerialised form in the centralised system of Monte Titoli S.p.A.<sup>(2)</sup>

(c) On or before the commencement of trading of the Notes on the Mercato Telematico Azionario ("**MTA**") managed by Borsa Italiana S.p.A. ("**Borsa Italiana**"), the Issuer shall enter into an agency agreement (the "**Agency Agreement**") with Società per Amministrazioni Fiduciarie "SPAFID" S.p.A. (the "**Conversion Agent**") to manage and execute the conversion of the Notes into Shares (as defined below) and with Società per Amministrazioni Fiduciarie "SPAFID" S.p.A. (the "**Calculation Agent**") to perform the calculations related to the Notes pursuant to these Rules. The Calculation Agent shall act autonomously and shall take decisions independently from the Issuer. The decisions taken by the Calculation Agent pursuant to these terms and conditions shall be deemed to be conclusive and binding on the Issuer and the noteholders (the "**Noteholders**"), except in the case of manifest error. Copies of this Agency Agreement shall be available to the Noteholders free of charge at the offices of the Issuer, the Conversion Agent, and the Calculation Agent. The Issuer reserves the right to terminate the Agency Agreement at any time solely for the purpose of replacing the Conversion Agent and/or the Calculation Agent, provided that upon such termination the Issuer shall simultaneously appoint, by entering into a new Agency Agreement, a Conversion Agent and/or Calculation Agent not less than thirty days and not more than forty-five days from the day before notice of such termination and subsequent appointment is provided to the Noteholders in accordance with Article 13 below, (except in the case of insolvency, in which case such termination and appointment of new Agents shall be immediately effective). Neither the Company, nor any company controlled by the Issuer or any associated company of the Issuer, pursuant to Article 2359 of the Italian Civil Code and to article 93 of Legislative Decree no. 58 of 24 February 1998 may be appointed as Conversion Agent or Calculation Agent.

## 2. Maturity and redemption

(a) Except as provided in Article 9 herein and without prejudice to the early redemption option as at letter (b) herein, the Notes shall be redeemed in full on [1 January, 2010] (the "**Redemption Date**"). At

(1) The total amount of the bond and the related number of Notes can only be determined following the outcome of the capital increase subscription approved by the Board of Directors of Olivetti S.p.A. on 13 October 2001. The increase contemplates the offer to right holders of a maximum of 4,079,803,958 Olivetti S.p.A. ordinary shares or, alternatively, a maximum of 4,079,803,958 Notes convertible into Olivetti S.p.A. ordinary shares.

(2) (a) The bonds shall be in dematerialised form, and title to the Notes shall be certified in accordance with: (i) Article 28 of Legislative Decree no. 213 of 24 June 1998 (the "Decree"); (ii) Article 33 of Regulation No. 11768 of CONSOB dated 23 December 1998; and (iii) the agreements between Olivetti and Monte Titoli S.p.A. No certificate shall be issued for the Notes, except as provided in paragraph (b) below.

(b) The Noteholders shall have the right to receive certificates representing the Notes, in a form approved by Olivetti, (the "Note Certificates") upon occurrence of one of the following events: (i) Monte Titoli S.p.A. becomes incapable of continuing, or stops, centralised management of financial instruments as a company authorised by the Bank of Italy and by CONSOB to carry out centralised management of financial instruments pursuant to Part V of the Decree and Olivetti appoints no other company to carry out the centralised management of the financial instruments as authorised by Part V of the Decree; or (ii) the Notes stop being actively traded on a regulated market pursuant to Article 28 of the Decree. The Note Certificates will not be issued to the bearer, under any circumstance. Each Note Certificate will be issued in the name of the person(s) identified in the Noteholder's instructions to Monte Titoli S.p.A. or to any company for the centralised management of financial instruments that succeeds Monte Titoli S.p.A.

redemption, an amount equal to 18.37825% of the nominal value of each Note shall be paid to each Noteholder in addition to the nominal value of the Note, and therefore the total amount paid per Note (the "**Redemption Value**") shall be 118.37825% of the nominal value of the Note. No expenses shall be deducted on redemption. The Notes shall bear no interest from the Redemption Date.

(b) As from 1 January 2004 and until 1 January 2010 the Issuer reserves the option to proceed to early redemption ("**Early Redemption**") of all the Notes outstanding (the "**Notes Outstanding**"), providing that the Calculation Agent has verified that the Share official price, as defined in the Regulation for Markets Organised and Managed by the Italian Stock Exchange, multiplied by the Conversion Ratio, as defined in Article 6 herein, and possibly subject to one or more adjustments in application of the provisions of Article 7 herein is more than – for at least 30 Stock Exchange Business Days (as defined at Article 6 herein), falling in a period of 45 (forty-five) consecutive Stock Exchange Business Days – 140% of the Accreted Principal Amount, as defined in Article 9 herein. This 45 (forty-five) day period cannot precede by more than 10 (ten) days the Redemption Notice as defined hereinafter.

Early Redemption shall be carried out as follows:

(i) exercise of the Early Redemption option will be communicated by the Issuer in the forms foreseen by Article 13 herein (the "**Redemption Notice**") with a notice period of not less than thirty (30) and no more than sixty (60) days in relation to the redemption date announced in the Redemption Notice (the "**Redemption Date**"). The Redemption Notice shall specify the last day on which the Noteholder will have the option to exercise their Conversion Right in accordance with point (ii) hereinafter;

(ii) until the [fifth] Business Day (as defined in Article 6 herein) preceding the Redemption Date, the Noteholder shall have the option to present a Conversion Request, as defined hereinafter, in accordance with the terms and conditions set forth in Article 6;

(iii) the payment to Noteholders following exercise by the Issuer of the Early Redemption option shall take place on the Redemption Date and shall be equivalent, for each Note, to the Accreted Principal Amount (as defined hereinafter) of the Note at the Redemption Date in addition to accrued interest, calculated in accordance with the provisions at Article 3 herein;

(iv) payment of the due sum following Early Redemption will take place without charge of any fee or expense to the Noteholder.

### 3. Interest

(a) The Notes shall bear gross interest from and including 23 November 2001 (the "**Issue Date**") at the rate of 1.5% per annum (the "**Interest Rate**"), equal to Euro 0.015, calculated on the nominal value of the Notes, payable annually in arrears on 1 January from 2003 to 2010 ("**Interest Payment Date**") gross of withholding tax. The first Interest Payment Date shall be 1 January 2003, for a gross payment equal to Euro 0.0166 per Note, that shall be the interest accrued since the Issue Date. At each Interest Payment Date following the first Interest Payment Date, the coupon shall amount to a gross amount of Euro 0.015 per Note.

(b) Each Note shall cease to bear interest in the following cases: (i) at the Redemption Date; (ii) in the event of exercise of the Conversion Right pursuant to Article 6, on and after the Interest Payment Date immediately preceding the Conversion Notice (as defined below); (iii) in the case of Early Redemption in accordance with Article 2, as from the Redemption Date (inclusive).

(c) Interest on a Note for a period ending on a date other than an Interest Payment Date shall be calculated by the Calculation Agent by applying the Interest Rate to the total nominal value of the Note and multiplying such sum by the "Day Count Fraction" (as defined below) and rounding the resulting figure to the nearest one per cent, each fraction of one per cent being rounded downward. For the purposes of this Article, "**Day Count Fraction**" means the actual number of days from and including the most recent Interest Payment Date (or the Issue Date) to the next scheduled Interest Payment Date (which shall be excluded), divided by the actual number of days in the same period from and including the Interest Payment Date (or the Issue Date) to the following Interest Payment Date (which shall be excluded).

(d) Interest shall be paid in accordance with the provisions of Article 8 below.

#### 4. Legal status

The Notes constitute direct, general, unconditional, and unsubordinated obligations of the Issuer and shall at all times rank pari passu among themselves and at least pari passu with all other present and future unsecured obligations of the Issuer, other than such obligations that are preferred by provisions of law that are both mandatory and of general application.

#### 5. Negative pledge

As long as any Note remains outstanding, the Issuer shall not, and shall procure that none of its Material Subsidiaries (as defined below) shall not create, or permit to subsist, any Security Interest (as defined below) upon the whole or any part of their present or future undertaking, assets, or revenues to secure any Relevant Indebtedness or Guarantee of Relevant Indebtedness (as defined below), without (a) simultaneously or prior thereto equally and rateably securing the Notes, or (b) providing such other security to benefit the Notes, and this with the prior favourable vote of the Noteholders at a Noteholders' Meeting.

**"Material Subsidiary"** means a company controlled by the Issuer whose consolidated net revenues or consolidated net assets as shown in the most recent audited consolidated financial statements represent 10 per cent or more of the consolidated net revenues or consolidated net assets of the Issuer, likewise as shown in the most recent audited consolidated financial statements.

**"Security Interest"** means any mortgage, charge, pledge, lien or other security interest including, without limitation, anything analogous to any of the foregoing under the laws of any jurisdiction different than Italy, excluding any such security interest over the property of any Person (as defined below) incorporated, merged with, or acquired by, the Issuer after 1 January, 1999 and existing immediately prior to such incorporation, merger, or acquisition.

**"Relevant Indebtedness"** means any Indebtedness (excluding, for avoidance of doubt, any bank loans) in the form of or represented by any bond, debenture, note, or other instrument which is, or is capable of being, listed, quoted, or traded on any stock exchange or in any securities market (including, without limitation, any over-the-counter market).

**"Guarantee of Relevant Indebtedness"** means, in relation to any Relevant Indebtedness assumed by any Person, any obligation of another Person to pay Relevant Indebtedness, including without limitation:

- (a) any obligation to purchase such Relevant Indebtedness;
- (b) any obligation to lend money, to purchase or subscribe to shares or other securities, or to purchase goods or services in order to provide funds for the payment of such Relevant Indebtedness;
- (c) any indemnity against the consequences of a default in the payment of such Relevant Indebtedness;
- (d) any other agreement to be responsible for such Relevant Indebtedness.

**"Person"** means any individual, company, corporation, firm, partnership, association, joint venture, organisation, state or agency of a state or other entity, whether or not having separate legal personality.

## 6. Right of conversion into shares of the company

(a) Each Note is convertible into ordinary shares of the Issuer (the **"Shares"**), each with a nominal value of Euro 1, at a conversion ratio of 1:1 (the **"Conversion Ratio"**). The numerator of the Conversion Ratio represents one Share and the denominator represents one Note. The Noteholders shall have the right (the **"Conversion Right"**) to request and receive one Share (a **"Conversion Share"**) for each Note presented for conversion. Conversion Shares shall be issued pursuant to the resolution as to the capital increase to service the "Olivetti 1.5% 2001-2010 convertible Bonds with premium upon redemption" of the Board of Directors of 13 October 2001, and are irrevocably and exclusively reserved for the conversion of the Notes until the last date for conversion of the Notes. The Conversion Ratio will be subject to adjustments pursuant to Article 7 hereinafter.

(b) Each Noteholder may exercise its Conversion Right for all or any of the Notes held by same in accordance with the following conditions:

(i) A notice (the **"Conversion Notice"**) requesting the conversion of Notes must be delivered by the Noteholder to an intermediary (the **"Intermediary"**), who must be a participant in the centralised system of Monte Titoli S.p.A. ("Monte Titoli"). The Conversion Notice may be delivered on any Business Day (as defined below) as from 22 January 2002 and until 15 December 2009, except as provided by sub-clause (iv) below; the day on which conversion shall take place (the **"Conversion Date"**), including for the purposes of sub-clause (ii) below and subject to sub-clause (iv) below, shall be the last Stock Exchange Business Day (as defined below) of the month during which the Conversion Notice was delivered, if the notice was delivered on or before the 15th day of any month (inclusive); or the 10th Stock Exchange Business Day of the following month, if the notice was delivered on or after the 16th day of any month.

**"Business Day"** means any day other than a Saturday or a Sunday on which banks are open for business in Milan.

**"Stock Exchange Business Day"** means any day when the Milan Stock Exchange is open for trading.

(ii) Conversion Shares issued shall carry the same dividend rights as Olivetti shares traded on the Stock Exchange on the Delivery Date and shall be issued with the current dividend coupons. Notes delivered for conversion shall bear interest until the 31 December immediately preceding delivery of the Conversion Notice and must be complete with all unmatured coupons. The Noteholder shall pay an amount equal to the total value of any missing coupons upon delivery of the Conversion Notice.

(iii) Olivetti shall, without charge of any fee or expense to the Noteholder, by the Delivery Date issue the Conversion Shares requested and shall pay any monies due in accordance with the following paragraph, and make the moneys available to those Noteholders who submitted a valid Conversion Notice, via the Intermediary that received the Conversion Notice;

(iv) no Conversion Notice may be submitted on the day following a meeting of the Board of Directors where the Board decided to call a meeting of Olivetti ordinary Shareholders and until the day in which the meeting is eventually held (inclusive), even if the meeting is not held at the time of first call. If the Board of Directors calls a meeting of Olivetti ordinary Shareholders to resolve upon a distribution of dividends, no Conversion Notice may be submitted during the period commencing on the 15th day after the Board's decision (inclusive) up to and including the day of payment of the dividend resolved at such Shareholders' meeting. In this case, any Conversion Notices submitted prior to the 15th day after the meeting of the Board of Directors shall take effect, including for the purposes of sub-clause (ii) above, and in any case on or before the day prior to the payment of the dividend.

In the event that, pursuant to the provisions of Article 7 below, the Noteholder is entitled to a fractional number of Conversion Shares, the Noteholder shall be issued Conversion Shares equal to the whole number of Conversion Shares to which the Noteholder is entitled and will be paid by the Issuer a cash amount, rounded to the nearest hundredth of Euro, equal to the value of the fractional share as calculated using the simple mathematical average of the official price of a Share on the MTA in the calendar month preceding delivery of the Conversion Notice.

At the time of signing and delivering the Conversion Notice, in addition to providing all other necessary and customary information, the Noteholder shall acknowledge that the Conversion Shares have not been registered under the Securities Act of 1933, as amended and in force in the United States of America (the "**Securities Act**"). No Conversion Share shall be issued to any Noteholder who does not fulfil these conditions.

## **7. Adjustments to the conversion ratio**

If at any time from the Issue Date to 31 December 2009, any of the events described in this Article 7 occurs, the Issuer shall notify the Noteholders in accordance with Article 13, of an adjustment (an "**Adjustment**") to the Conversion Ratio and of the new Conversion Ratio, pursuant to the terms of this Article 7. Adjustment shall be determined by the Calculation Agent on the basis of the last determined Conversion Ratio (except as otherwise provided).

(a) If the Issuer effects a paid-in capital increase, or issues notes convertible into shares, or warrants or similar securities convertible into shares (the "**Other Securities**"), which are offered in pre-emption to Olivetti shareholders, then the Noteholders also shall be entitled to such pre-emptive rights on the same terms and conditions, in proportion to the Conversion Ratio.

(b) If the Issuer effects any subdivision or combination of Shares, the number of Conversion Shares to which the Noteholder shall be entitled shall be adjusted on the same basis used for the subdivision or combination of the Shares, and the Conversion Ratio shall be modified accordingly. The Adjustment shall become effective upon the effective date of the subdivision or combination.

(c) If the Issuer effects any capital increase without the payment of consideration by the issuance of new Shares, the number of Conversion Shares to which a Noteholder shall be entitled shall be increased by an amount equal to the ratio of the newly-issued Shares and those already outstanding at the time. Such adjustment shall be effective at the date of issue of such new shares of the Company. Provided that, if the Issuer effects any capital increase without the payment of consideration by increasing the nominal value of the Shares, the Conversion Ratio shall not be adjusted and the number of Conversion Shares to which the Noteholder is entitled shall not be modified.



(d) In the event that the Company merges or consolidates with another company (except if the Issuer is the incorporating entity) or in the event of a demerger, each Note shall have a Conversion Right to a number of shares of the Issuer or the company/ies resulting from such merger, or demerger, equal to the number of Shares that would have been assigned to each Olivetti Share, on the basis of the applicable exchange ratio, if the Note had been converted into Shares prior to the effective date of the merger or demerger.

(e) No adjustment shall be made to the Conversion Ratio if the Issuer grants or issues Shares or Other Securities to the managers, or workers of the Issuer or its affiliates and/or subsidiaries pursuant to Article 2359 of the Italian Civil Code and article 93 of Legislative Decree 24 February 1998, no. 58 or in connection with severance payments.

(f) In the event that the Issuer believes that any event or circumstance that has occurred or shall occur in the future, different from those expressly contemplated in this Article, could have or will have similar effects to those discussed above, then any Adjustment to the Conversion Ratio shall be determined in good faith by the Advisor (as defined below) using generally accepted methods and fully respecting the provisions of the applicable law. As soon as reasonably possible after receiving the Advisor's determination, the Issuer shall adjust the Conversion Ratio in accordance with the terms of such determination.

**"Advisor"** means an independent, internationally known investment bank selected by the Calculation Agent and by the Issuer, at the expense of the Issuer. In the event that the Issuer and the Calculation Agent do not agree on the appointment of the Advisor, then:

(i) each of them shall appoint one advisor;

(ii) the two advisors selected pursuant to sub-clause (i) shall then jointly appoint a third advisor;

(iii) a simple majority shall be needed for the decisions of the advisors;

(iv) any reference herein to the Advisor shall include the three advisors so appointed.

(g) Notwithstanding any provision in this Article 7, no Adjustment shall be made unless the Adjustment represents a change of at least 1% to the Conversion Ratio. Any Adjustment not made because of the provision in this paragraph shall be carried forward and taken into consideration for the calculation of any later Adjustment.

(h) In the event that a third party publicly announces its intention to make a tender offer to Olivetti Shareholders for purchase or exchange of all or part of the Shares of Company (a **"Tender Offer"**), and offers under the terms of the Tender Offer, a price or value which is higher than the market value of an ordinary Olivetti Share on the day on which the Tender Offer is publicly announced, Olivetti agrees to notify the Noteholders in accordance with Article 13 below of their right to convert the Notes at any time in accordance with the maximum notice periods under Italian law concerning such offers.

Under no circumstance shall the Conversion Shares be issued at a value lower than the nominal value.

## 8. Payment

The payment of principal, interest, and other amounts due with respect to the Notes, shall be made in Euro by crediting or transferring to a Euro-denominated account (or to any other account into which Euro currency may be transferred or credited). The payments, in favour of Noteholders, shall be made to

the relevant intermediaries for sums not less than a hundredth of a Euro and should, by reason of a calculation performed in accordance with the present Regulation, a fractional payment of over a hundredth of a Euro be due to the Noteholder, the payment in favour of the Noteholder shall be carried out by rounding down to a hundredth of a Euro.

Payment of principal, interest, or other amounts due with respect to the Notes shall be subject to all fiscal laws and/or other laws or regulations applicable in the place of payment. No commission fee or expense shall be charged to the Noteholders in connection to such payments.

In the event that the date of payment of the principal, interest or other amounts due with respect to the Notes is not a Business Day, then payment shall be made on the Business Day immediately after, and the Noteholders shall not be entitled to any interest or any other sums because of the postponed payment. For the purposes of this Article only, **"Business Day"** means a day on which the Trans-European Automated Real-Time Gross Settlement Express Transfer (TARGET) System is operating.

## 9. Default of the issuer or the subsidiaries

In the event that:

(i) any Indebtedness (as defined below) of the Issuer or any of its Controlled Companies (as defined below) is not paid when due or (as the case may be) within any originally agreed grace period;

(ii) any such Indebtedness becomes due or payable prior to its stated maturity otherwise than at the option of the Issuer or any of the Controlled Companies (provided that no event of default howsoever described has occurred) or any Person entitled to such Indebtedness;

(iii) the Issuer or any of the Controlled Companies fails to pay any amount when due under any Guarantee of any Indebtedness (as defined below);

and the Indebtedness referred to in sub-clause (i) and/or sub-clause (ii) above and/or any amount payable under any Guarantee referred to in sub-clause (iii) above, individually or in the aggregate, exceeds Euro 25,000,000 (or its equivalent in any other currency or currencies);

then any Note may, upon notice by the Noteholder written and delivered to the Issuer, be declared immediately due and payable at an amount equal to its Accreted Principal Amount (as defined below) together with the interest accrued from the last Interest Payment Date.

**"Indebtedness"** means any obligation (whether present, future, actual, or contingent) for the payment or repayment of money which has been borrowed or raised.

**"Guarantee"** means, in relation to any Indebtedness of any Person, any obligation of another Person to pay such Indebtedness, including without limitation:

(a) any obligation to purchase such Indebtedness;

(b) any obligation to lend money, to purchase or subscribe shares or other securities, or to purchase assets or services in order to provide funds for the payment of such Indebtedness;

(c) any indemnity against the consequences of a default in the payment of such Indebtedness;

(d) any other agreement from which responsibility for such Indebtedness arises.

**"Control"** means as set forth in Article 93 of Legislative Decree no. 58 of 24 February 1998.

**"Controlled Company"** means any Person subject to the direct and/or indirect Control of the Issuer, pursuant to the provisions of par 2 Article 2359 of the Italian Civil Code.

**"Accreted Principal Amount"** or **"APA"** means the following:

$$\text{APA} = (\text{Previous APA} - N) \times (1+i)^{(d/e)} + N \times (1+i-c)^{(d/e)}$$

Where:

- Previous APA is the APA as of the Interest Payment Date preceding the date set for payment of the APA (pursuant to this Article), or the nominal value if the date set for payment of the APA is before 1 January 2003;
- N is the nominal value of the Notes;
- i is the actual yield rate to maturity, equal to 3.5% gross annual interest rate;
- d is the number of actual days in the period from the Interest Payment Date preceding the date set for payment of the APA (exclusive) – or the Issue Date if the date set for payment of the APA is before 1 January 2003 – to the date set for the payment of the APA (inclusive);
- e is the number of actual days yearly equal to 365; and
- c is the gross annual interest rate equal to 1.5%.

The table below sets out the APA and the calculation thereof on the indicated dates (the data is expressed in terms of percentage of the nominal value of the Notes).

Date	Nominal value (1)	Accretion (2)	APA (1) + (2)
1 January 2003	100	2.21605	102.21605
1 January 2004	100	4.29361	104.29361
1 January 2005	100	6.44389	106.44389
1 January 2006	100	8.66942	108.66942
1 January 2007	100	10.97285	110.97285
1 January 2008	100	13.35690	113.35690
1 January 2009	100	15.82440	115.82440
1 January 2010	100	18.37825	118.37825

## 10. Taxation

### A) Interest and other income

Interest, bonuses and other income, including the amount or the normal value of the redeemed securities and the issue price, for notes with a maturity date not less than 18 months issued by joint stock companies who list their shares on Italian regulated markets, treated under Italian tax laws as investment income, if realised by particular categories of resident and non-residents subjects, are subject to a 12.50% substitute income tax.

In particular, residents subject to the substitute tax are: (i) individuals, even if carrying out commercial activities; (ii) ordinary partnerships, their equivalent de facto partnerships and associations for arts and professions; (iii) public and private bodies, but not companies, (associations, foundations, non-profit organisations etc.), which do not have as their exclusive or main purpose the exercise of commercial activities, pursuant to article 87, par 1, letter c), of the consolidated law on income taxes<sup>(3)</sup>, including Regions, Provinces, Municipalities and other parties indicated by article 88 of the aforementioned con-

(3) Presidential Decree no. 917 of 22 December 1986 and subsequent amendments and additions.

solidated law; (iv) parties exempt from income tax on corporate bodies. Individuals exercising commercial activities and public or private bodies, but not companies, in accordance with the aforementioned article 87, par 1, letter c) of the consolidated law, provided that the notes relate to the commercial activities undertaken by them, must include the interest in their taxable income for personal income tax or corporation tax and are entitled to claim on their tax return, as a tax credit, the tax deducted at source.

The tax is normally applied by authorised financial intermediaries (banks, trust companies, securities brokers, exchange brokers and other bodies expressly specified by the Ministry of Finance in agreement with the Treasury) who are involved in the payment of interest and other revenue or, also as buyers, in the transfer of notes (that is, the sale or any other act, with or without payment of consideration, that leads to a change in the legal title to the securities).

Interest and other income received via non-authorised intermediaries, interest paid directly by the issuer and interest that, albeit collected through authorised intermediaries, relates to securities not deposited with these intermediaries, are, nonetheless, subject to taxation. In this case, taxpayers exempt in principle from the tax are entitled to claim the tax deducted at source, as a tax credit, on their tax return.

Noteholders resident overseas in countries with which Italy has double-taxation treaties which permit the Italian tax authorities to acquire information, are exempt from the deduction at source of the substitute tax. However, the exemption is subordinate to the lodging of the securities in question with an Italian bank or securities broker or with a permanent organisation in Italy of non-resident banks or securities brokers, and to the presentation of a specific application requesting exemption together with a certificate from the competent tax authority of the country of residence, both to be prepared in a form that complies with that approved by the Italian Finance Administration. Noteholders resident in foreign countries with a preferential tax regime, as identified in the relevant decree of the Ministry of Finance, are in any case subject to the substitute tax.

Article 10 of Legislative Decree no. 350<sup>(4)</sup> of 25 September 2001, the provisions of which have effect for the interest and other revenue that accrue as from 1 January 2002, provides for the suppression of the condition (to which the tax exemption is currently subject) of residence in foreign countries which have double-taxation treaties with Italy and which permit an exchange of information. Thus, as from the aforementioned date, provided that the aforementioned decree passes into law, all parties who are resident abroad will be able, without distinction, to take advantage of the exemption, except, however, those who live in countries with a preferential tax regime as identified by Italian law. The same provision also provides, from 1 January 2002, for the suppression of the certificate from the tax authority of the foreign country of residence (form 116/IPM) and its substitution with a declaration from the noteholder attesting to their non-resident status in Italy and in states or territories with a preferential tax regime.

If exemption from the substitute tax is not applicable, any more favourable rates that may be levied by the Italian authorities under the terms of double-taxation agreements between Italy and the foreign country of residence of the parties concerned apply.

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(4) The provision, at date of publication, has not passed into law.

## *B) Capital gains*

Capital gains realised on the sale or redemption of convertible notes traded on regulated markets, consisting of the difference – net of investment income matured and not collected (which remains subject to the treatment summarised in part A above) – between the consideration collected or the amount or normal value of the redeemed securities and the purchase cost or value, treated under Italian tax laws as other income (of a financial nature), are subject, if not gained in the exercise of business or arts or professions, to a 12.50% substitute income tax, except if they are sales through which significant shareholdings<sup>(5)</sup> can be acquired, in which case the substitute tax is due at a rate of 27%.

Non-residents are excluded from the 12.50% tax on the condition that: (i) the capital gains are realised in relation to a sale of convertible notes which represent a non-qualified shareholding; and (ii) the convertible notes are traded on regulated markets. The non-resident status must be documented by a declaration on the part of the party in question. In particular, recognition of exemption is due to non-residents who present to the resident withholding agent or intermediary, with which they have direct dealings regarding the custody, administration, deposit or management of securities, a form of self-certification, signed by them with a simple signature, in which they declare to be non-resident in Italy pursuant to Italian tax laws. Should the aforementioned dealings be undertaken by non-resident intermediaries on behalf of their clients, also non-resident, the declaration must be made by the intermediaries. Vice versa, should the aforementioned condition exist for the application of the 27% substitute tax, non-residents – according to Italian law – are not exempt, except for the application of any more favourable rates under the terms of the double-taxation agreements between Italy and the foreign country of residence.

For resident taxpayers subject to the substitute tax there are three different tax bases: tax return (or ordinary regime), asset management or portfolio management.

In the ordinary regime the tax is set off (in a single operation) in the tax return under the net taxable amount determined by netting the capital gains and losses realised in the tax year, with the possibility of carrying forward any excess of capital losses not set off in the year to following years, up to a maximum of four years. In the case of securities entrusted permanently in custody or administration to a qualified intermediary (asset management), capital gains are taxed on an individual basis, although previous capital losses may be deducted against capital gains realised in subsequent transactions. In the case of individual portfolio management by qualified operators, tax is payable on the net result of the portfolio management for the tax year. Also in both the latter cases, any year-end losses may be carried forward into successive years, but for no more than four years.

For further details on taxation of investment income and other financial income, refer to the appropriate clauses of Legislative Decree no. 239 of 1 April 1996, Legislative Decree no. 461 of 21 November 1997, Legislative Decree no. 259 of 21 July 1999, Legislative Decree no. 221 of 19 July 2000, and articles 20, 41, 42, 81 and 82 of the consolidated law on income taxes.

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(5) In the case of shares traded on regulated markets, "significant shareholdings" include shareholdings, rights or securities that in the aggregate represent more than 2% of voting rights at ordinary shareholders' meetings or more than 5% of capital. In order to determine the substitute tax rate to be applied, the percentage shareholding sold is determined taking into account all the sales carried out over the twelve months, both before and after the sale, albeit to different parties. However this regulation is only applied as from the date in which the shareholdings, securities and rights owned represent a percentage of voting rights or capital such as constitute a significant shareholding. With reference to convertible notes, the percentage sold is determined by taking account of the percentages of voting rights and capital that can potentially be added to the shareholdings to which the aforementioned convertible notes give rights give the right to buy.

## **11. Negative prescription**

Noteholders' claims for payment of interest shall become void if not made within five years from the due date of the payment thereof. Noteholders' claims for the payment of the Accreted Principal Amount shall become void if not made within ten years of the Redemption Date.

## **12. Listing**

The Notes have been admitted for listing on the MTA. The date of commencement of trading will be set by Borsa Italiana after verification of satisfactory distribution of the Notes.

## **13. Notices**

Except as provided for by the applicable law or regulations, notices required or permitted under these Terms and Conditions shall be valid for all Noteholders if published in at least two daily newspapers of which one shall be a national daily newspaper in Italy.

## **14. Governing law and jurisdiction, miscellaneous**

- (a) Subscription or purchase of the Notes implies full acceptance of these Terms and Conditions.
- (b) The Notes and these Terms and Conditions shall be governed by Italian Law.
- (c) The courts of Ivrea shall have exclusive jurisdiction to hear any dispute between the Issuer and the Noteholders arising out of or in connection to the Notes or these Terms and Conditions.