

Italy's transposition: Legislative Decree No. 208 of 2025

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Italy transposed CRD VI by Legislative Decree No. 208 of 31 December 2025, published in the *Gazzetta Ufficiale* No. 5 of 8 January 2026. The decree inserts a new Article 14-bis TUB under which a third-country bank requires authorization of a branch in Italy to carry on the activities in Article 1 paragraph 2 letter f numbers 1, 2 and 6 TUB, which correspond to the core banking services of the directive. It exempts services to banks, to undertakings of the same group and to retail clients, professional clients or eligible counterparties that approach the bank at their own exclusive initiative. It rewrites Article 16 paragraph 4 TUB, so that third-country banks may still operate without a branch after communication to the Banca d'Italia, but only within the limits that Article 14-bis leaves open, and it adds a new paragraph 5-bis empowering the Banca d'Italia to issue implementing rules.¹ A new chapter of the TUB (Articles 58-ter to 58-septies) classifies third-country branches and imposes capital endowment and liquidity requirements on them.²

The transitional provisions follow the directive's option for existing contracts. Contracts concluded before 11 July 2026 may continue to be managed, but they may not be renewed by novation. Contracts of indefinite duration must be transferred to an authorized intermediary or terminated by 10 January 2028, unless the client himself takes the initiative to continue them. The new regime applies from 11 January 2027.³ For a Lugano bank with a book of Italian clients the transitional rule raises immediate questions. A current account is a contract of indefinite duration. A Lombard credit line is usually granted for an indefinite period and terminable on notice. If neither can be shown to rest on the client's initiative, the decree requires the bank to bring them to an end within a year of the new rules applying.

1 What changes for Lugano

The Swiss Bankers Association has stressed that CRD VI has no impact on the ability of clients in the Union to maintain existing accounts with Swiss banks or to open new ones, provided the relationship rests on the client's initiative.⁴ This is correct as a statement of the directive's reverse solicitation clause, and it is the reading on which Swiss banks will build their compliance. The practical difficulty lies in the proof. Before 2027 a Swiss bank that accepted deposits from Italian residents had to fear Italian criminal law only if it carried on banking activity in Italy, a demanding test. After 2027 the Italian supervisor will start from the principle that core banking services to Italian residents require an Italian branch and will look for evidence that the client approached the bank on his own initiative. The burden of showing the exemption will fall on the bank.

The new rules affect the products that the Lugano banks use to bind Italian clients. A Lombard loan to finance the purchase of a property in Italy, a mortgage in Ticino for an Italian resident, a guarantee in favour of an Italian supplier of a family company and the offer of a higher deposit rate in a marketing campaign are all core banking services within the meaning of Article 21c. Investment services remain outside the new branch requirement, but only because they are already subject to the stricter MiFID regime in Italy. A bank that complies with the TUF for investment services and assumes that it is free in its lending business will find, from 2027, that the two regimes have converged.

Essentials. From 11 January 2027 a Swiss bank may provide deposits, loans and guarantees to Italian residents only through an authorized Italian branch, unless the client approaches the bank at his own exclusive initiative or another exemption applies (Article 21c CRD as transposed by Article 14-bis TUB). Contracts concluded before 11 July 2026 may be managed but not renewed, and contracts of indefinite duration must be transferred or terminated by 10 January 2028 unless the client takes the initiative to continue them.

2 Notes

1. Legislative Decree No. 208 of 31 December 2025, *Gazzetta Ufficiale*, Serie generale, No. 5 of 8 January 2026, extract at <https://www.dirittobancario.it/wp-content/uploads/2026/01/Decreto-legislativo-31-dicembre-2025-n.-208-estratto-della-Gazzetta-Ufficiale.pdf>; Brocardi.it, annotation to Art. 16 TUB (above). ↩

2. Studio Cerbone, "Decreto legislativo n. 208 del 31 dicembre 2025", <https://www.studiocerbone.com/?p=502695>. ↩
3. Legislative Decree No. 208/2025 (above), Art. 4 para. 2. ↩
4. Swiss Bankers Association, "Relations between Switzerland and the EU", <https://www.swissbanking.ch/en/topics/market-access/relations-between-switzerland-and-the-eu>. ↩

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