

# Bit Market Services

Informazione Regolamentata n. 0958-234-2016	Data/Ora Ricezione 25 Ottobre 2016 18:18:39	MTA
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Societa' : BANCO POPOLARE

Identificativo : 80577

Informazione  
Regolamentata

Nome utilizzatore : BCOPOPOLAREN01 - MARCONI

Tipologia : IRED 04

Data/Ora Ricezione : 25 Ottobre 2016 18:18:39

Data/Ora Inizio : 25 Ottobre 2016 18:33:40

Diffusione presunta

Oggetto : REGISTRATION IN THE COMPANY  
REGISTER OF THE SHAREHOLDERS'  
EXTRAORDINARY MEETING  
RESOLUTION OF THE APPROVAL OF  
THE MERGER PLAN

*Testo del comunicato*

Vedi allegato.

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## **NOTICE TO THE MEMBERS AND THE SHAREHOLDERS OF BANCO POPOLARE – SOCIETA' COOPERATIVA**

pursuant to art. 84 of Consob Regulation no. 11971/1999, as subsequently amended and integrated

### **REGISTRATION IN THE COMPANY REGISTER OF THE SHAREHOLDERS' EXTRAORDINARY MEETING RESOLUTION OF THE APPROVAL OF THE MERGER PLAN**

#### **PROCEDURES AND TERMS TO EXERCISE THE RIGHT OF WITHDRAWAL**

On 25 October 2016 (the “**Registration Date**”) the resolution has been filed with the Verona Companies Registry (the “**Merger Resolution**”), that was passed by the Shareholders at the Extraordinary General Meeting of Banco Popolare - Società Cooperativa (“**Banco Popolare**” or the “**Company**”), held on 15 October 2016 in second call (the “**Extraordinary Meeting**”), to approve the Merger Plan (the “**Merger**”) between Banco Popolare and Banca Popolare di Milano S.c. a r.l. (“**BPM**”), to be carried out through the incorporation of new banking company taking the form of a joint-stock company named “Banco BPM Società per Azioni” (“**Banco BPM**”).

#### **THE RIGHT OF WITHDRAWAL AND QUALIFIED SHAREHOLDERS**

The approval of the Merger by the Shareholders at the Extraordinary Meeting, as already indicated in the Merger Plan and in the Illustrative Report of the Board of Directors of Banco Popolare, prepared, *inter alia*, pursuant to art. 2501-*quinquies* of the Italian Civil Code (“**Banco’s Illustrative Report**”), entitles the shareholders and the Members of Banco Popolare - who have not partaken in the approval of the Merger Resolution (and, therefore, to absent, against or abstainer Members of Banco Popolare) - to exercise their right of withdrawal from the Company pursuant to art. 2437 of the Italian Civil Code (the “**Right of Withdrawal**”) (Shareholders of Banco Popolare and aforementioned Members, collectively the “**Qualified Shareholders**”). The effectiveness of the Right of Withdrawal is conditional on the effectiveness of the Merger.

## LIQUIDATION VALUE

As communicated to the market on 13 September 2016, the unit liquidation value of the Company's shares for which the Right of Withdrawal is exercised, has been calculated in compliance with art. 2437-ter, paragraph 3, of the Italian Civil Code, equal to Euro 3.156 for each share of Banco Popolare, by referring exclusively to the arithmetic mean of the closing Banco Popolare stock exchange prices over the six months prior to 13 September 2016, i.e., the date of publication of the notice calling the Extraordinary Meeting, published, *inter alia*, on Banco Popolare's website, and in the daily newspapers "Il Sole 24 Ore" and "MF".

## WITHDRAWAL NOTIFICATION

Pursuant to Article 2437-bis of the Italian Civil Code, Qualified Shareholders may exercise their right of withdrawal, for all or part of the shares they hold, by sending a notification to the Company by a registered letter (the "**Withdrawal Notification**"), which shall be sent to the Company within fifteen calendar days of the Registration Date, hence **within and no later than 9 November 2016** (the "**Withdrawal Right Exercise Deadline**"). The Withdrawal Right shall have the caption "**Exercise of the Right of Withdrawal**".

The Withdrawal Notification must be addressed to **Banco Popolare - Società Cooperativa, Ufficio Amministrazione Soci, Piazza Nogara n. 2, 37121 Verona** and shall contain the following information:

- (i) personal details (first name, family name and date of birth in case of an individual, or company name and registered office in case of a company), the tax code of the withdrawing Qualified Shareholder (the "**Withdrawing Shareholder**"), as well as the domicile address (a telephone number and, whenever possible, an e-mail address) where communications concerning the withdrawal process can be sent;
- (ii) the number of shares for which the Right of Withdrawal is being exercised (the "**Shares under Withdrawal**");
- (iii) details of the intermediary with which the Shares under Withdrawal are deposited, with the data of the related account.

The Withdrawing Shareholder may formulate a Withdrawal Notification by using a specific form available on the Company's website [www.bancopopolare.it](http://www.bancopopolare.it) (section *Investor Relations / BP – BPM Merger*).

In accordance with art. 23 of the Bank of Italy-Consob Provision dated 22 February 2008 as subsequently amended (the "**Joint Provision**"), for the Withdrawal Notification to be admissible, the entitlement to exercise the Right of Withdrawal must be certified by a specific communication (the "**Communication**") issued by the intermediary belonging to the centralised management system of Monte Titoli S.p.A. with whom the Shares under Withdrawal are deposited, and sent to the Company according to the procedures defined by the applicable laws and regulations. The Qualified Shareholders, whose shares are already deposited in custody and administration, therefore already dematerialized, with Banco Popolare or other bank of the Group must request, pursuant to art. 23 of the Joint Provision, the issuance of the Communication.

At the request of interested one, the intermediary in charged shall have to send the Communication to the Company by certified mail to the following address: [recessobancopopolare@pecserviziotitoli.it](mailto:recessobancopopolare@pecserviziotitoli.it).

The Communication shall certify that:

- (i) the Withdrawing Shareholder has owned the Shares under Withdrawal for an uninterrupted period spanning from a date prior the date of the Extraordinary Meeting and up to the date on which the Communication (included) was issued, and in any case up to the date on which the Right of Withdrawal was exercised when the issuance of the Communication by the intermediary has been following to the abovementioned date. With respect to the eligibility criteria, to be qualified to exercise the Right of Withdrawal a Shareholder also who has purchased Banco Popolare shares

through the stock exchange must have settled them in due time so as to receive them prior to the opening of the Extraordinary Meeting;

- (ii) the Shares under Withdrawal are free of pledges or other encumbrances in favour of third parties; otherwise, for the Withdrawal Notification to be deemed admissible, the Withdrawing Shareholder must as well send to Banco Popolare, following the same procedures and attached to the Withdrawal Notification, a specific statement by the secured party, or other beneficiary of the encumbrance, stating their irrevocable and unconditioned consent to the release of the Shares under Withdrawal from pledge and/or encumbrances and to the related liquidation in accordance with the instructions of the Withdrawing Shareholder.

The above communications, statements and certifications must be made also by Withdrawing Shareholders who hold Banco Popolare shares that have been placed on the centralised management system, with the requested formalities pursuant to applicable laws and regulations. In this event, they must deliver the certificates representing the shares beforehand to an authorized intermediary for their centralization in Monte Titoli S.p.A. and request the issuance of the abovementioned Communication to exercise the Right of Withdrawal.

The Withdrawing Shareholders are responsible for ensuring that the information provided in the Withdrawal Notification is correct and for sending the Notification to the Company within the Term of Exercise of the Withdrawal, as specified above, without the Company assumes any liability on this. Any Withdrawal Notifications that should be sent after the above deadline, and/or lacking the necessary information and/or lacking in due time of the Communication, will not be admissible.

## **LOCK-UP OF SHARES UNDER WITHDRAWAL**

In compliance with art. 2437-*bis*, par. 2, of the Italian Civil Code and with current regulations, the Shares under Withdrawal shall be not available up to the outcome of liquidation procedure; hence, the abovementioned shares may not be transferred by shareholders up to the term of the liquidation procedure, making temporally impossible to realize their investment. Pursuant to the applicable framework, the issuance of the Communication by the intermediary shall trigger the lock-up of the Shares under Withdrawal by the intermediary.

## **LIQUIDATION PROCEDURE**

In the event that one or more Qualified Shareholders exercise their Right of Withdrawal, the liquidation procedure will be carried out in compliance with art. 2437-*quater* of the Italian Civil code which, in relation to the possible purchase of the Shares under Withdrawal by Banco BPM, pursuant to art. 2437-*quater*, Paragraph 5, of the Italian Civil Code, is subject to limits and encumbrances provided for L. no. 33 of 24 March 2015, as already detailed in the Banco's Illustrative Report and following specified.

As of the legal effectiveness date of the Merger, the procedure under the above mentioned art. 2437-*quater* of the Italian Civil Code - when it is still in progress - shall concern the Banco BPM shares issued as a result of the Merger exchange ratio (1 newly issued Banco BPM ordinary share for each Banco Popolare ordinary share; the “**Exchange Ratio**”). It is understood that these newly issued Banco BPM shares shall also be subject to the lock-up restriction described in the previous paragraph (“*Lock-up of Shares under Withdrawal*”) and that the withdrawing Qualified Shareholders shall be entitled to receive the same overall liquidation value indicated in the above paragraph concerning the liquidation value.

The effectiveness of any exercised Right of Withdrawal and the liquidation procedure of the Shares under Withdrawal, to the extent that this procedure has been begun prior of the effectiveness of the Merger, and its steps are conditional on the effectiveness of the Merger. Therefore, in case the Merger is not completed, the Shares under Withdrawal (that is the shares of Banco BPM assigned in exchange

of the same) shall be released from the lock-up restriction described in the previous paragraph (*Lock-up of Shares under Withdrawal*) and replaced in the free availability of the Withdrawing Shareholder; the liquidation procedure of the abovementioned shares shall be consequently interrupted.

#### **(A) The Pre-emptive Offer**

Shares under Withdrawal will first be pre-emptively offered to the shareholders of Banco Popolare who did not exercise their Right of Withdrawal, in proportion to the number of Banco Popolare shares they hold (the “**Pre-emptive Offer**”).

Shareholders will be granted, as provided by law, a term of no less than thirty days as of the date on which the Pre-emptive Offer is deposited with the Verona Companies Registry to exercise their pre-emptive rights. Moreover, Banco Popolare shareholders who exercise their pre-emptive rights in the provision of the Pre-emptive Offer, provided they concurrently apply for it, shall be granted the pre-emptive right also on the purchase of Shares under Withdrawal that have not been taken up.

In the event that the number of shares for which the pre-emption right is exercised is higher than the number of shares that have not been taken up at the end of the Pre-emptive Offer period, the remaining shares shall be distributed among all the applicants in proportion to the number of shares they hold.

The terms and procedures to participate in the Pre-emptive Offer, together with any additional information thereon, shall be communicated by the Company in the notice of the Pre-emptive Offer to be deposited with the Verona Companies Registry pursuant to art. 2437-*quater*, par. 2, of the Italian Civil Code. The notice shall be announced with the modalities and the terms provided by laws in force.

#### **(B) The Offer on the Market**

Any residual shares under withdrawal that were not sold at the end of the Pre-emptive Offer may be possibly offered on the Italian MTA market (Mercato Telematico Azionario) organized and managed by Borsa Italiana S.p.A. (the “**Offer on the Market**”), in compliance with art. 2437-*quarter*, Paragraph 4, of the Italian Civil Code as well as the other applicable legal and regulatory provisions. The necessary information regarding the possible Offer on the Market shall be communicated in due time with the modalities and the terms provided by laws in force.

#### **(C) Further steps in the liquidation procedure - Limitations on the reimbursement of the shares under withdrawal**

In relation to the possible reimbursement of the not placed shares under withdrawal upon completion of the Pre-emptive Offer and of the Offer on the Market, pursuant to art. 2437-*quater*, par. 5, of the Italian Civil Code, and the rule provided on it for the *popolari* banks, as already illustrated in detail in Paragraph 11.2 of the Banco’s Illustrative Report, it is recalled that article 1 of Decree Law no. 3 of 24 January 2015, (the “**Decree**”), transposed into Law no. 33 of 24 March 2015, has amended certain provisions of the Lgs. D. 385/93 (“**Consolidated Banking Act**” or “**TUB**”) on *popolari* banks: *inter alia*, a new Paragraph 2-*ter* was added to art. 28 TUB, in force of which: “*At 'banche popolari' and 'banche di credito cooperativo', the right of reimbursement in the event of withdrawal, also as a result of transformation, death, or exclusion of the shareholder, is limited in accordance with the provisions of the Bank of Italy, even if this involves a derogation from statutory provisions, when this is necessary to allow the computability of the shares in the core regulatory capital of the bank. For the same purposes, the Bank of Italy may limit the right of reimbursement of the other equity instruments issued*”.

The regulatory framework set forth by art. 28, Paragraph 2-*ter*, of TUB has been completed with the introduction of Chapter 4 of the Third Part of the Bank of Italy Circular no. 285 of 17 December 2013,

in particular regarding the Section III in which it is provided that *“the by-laws of the 'banca popolare' and the 'banca di credito cooperativo' confers on the body having the strategic supervision, upon proposal of the management body, having heard the body having controlling functions, the power to limit or defer, entirely or partly and with no time-limits, the reimbursement of the shares and other capital instruments of the shareholder that has exercised his/her/its withdrawal right (even in the event of transformation), exclusion or death, as provided by the applicable supervisory regulations. This right is granted, pursuant to Article 28, Paragraph 2-ter, Consolidated Banking Act, even in derogation from the applicable provisions of the Italian Civil Code and other statutory provisions”*.

Consistently, taking into account the guidelines issued by the Bank of Italy and following the issuance of the ascertainment order pursuant to Article 56 of the Consolidated Banking Act, Banco Popolare has amended its own by-laws by introducing a new Paragraph at the end of Article 15, according to which *“In implementation of the provisions of Art. 28, paragraph 2-ter of Italian Legislative Decree no. 385 of 1 September 1993, the Board of Directors, in respect of the regulatory provisions in force at each time, having heard from the Board of Statutory Auditors, is entitled to limit, in whole or in part and without time limits, or to defer in whole or in part, also in this case without time limits, the redemption of the shares in the case of withdrawal, also following the transformation of the Company, exclusion or death of the shareholder, all in derogation of the provisions of the Italian Civil Code in that regard and any other rule of law. Without prejudice to the applicable authorizations of the Supervisory Authorities for the redemption of shares, the Board of Directors, having heard from the Board of Statutory Auditors, makes the decisions on extending the deferment, on the extent of the limitation or, if full, on the exclusion of the redemption of shares as well as on the time extension of the deferment, taking into account the Bank's prudential situation.”*.

BPM has added a similar provision in its own by-laws (see Article 39, Last Paragraph, of the by-laws of BPM).

The reimbursement of Banco Popolare's shares (such as BPM's shares), whereby the Right of the Withdrawal has been exercised, remaining when the Pre-emptive Right shall be exercised, as well as the possible placement under the Offer on the Market, shall be subject to the implementation of the abovementioned regulatory and statutory provisions and, whether they are not derogated, of the specific Civil Code provisions on the subject.

To be noted that the decision on the reimbursement of the remaining shares shall be taken: (i) only after the Merger takes effect; and (ii) once the amount of the shares for which the withdrawal has been exercised and the result of the Pre-emptive Offer and on the market of the same pursuant to Article 2437-*quater*, Paragraphs 1 to 4, Italian Civil Code, have been published in order to know the remaining amount that would be charged to Banco BPM pursuant to Article 2437-*quater*, Paragraph 5, of the Italian Civil Code.

As better specified in the Paragraph 11.2 of the Banco's Illustrative Report to which reference is made for more details, neither Banco Popolare or BPM are in the condition to provide definitive guidelines in relation to the possible limitation which shall be set forth by Banco BPM on the reimbursement of the abovementioned remaining shares, since the same banks do not know – neither they can currently determine with certainty – the effective situation of the capital ratios and the overall prudential, financial, liquidity and solvency situation which shall characterize Banco BPM and on the base of which, in force of the applicable law and regulatory provisions, the same shall have its determinations on it. Nevertheless, in compliance with the Bank of Italy's requests in the report on the consultation for the issuance of new supervisory provisions, it has been considered – in order to permit to the members and shareholders to exercise as conscious as possible the Right of the Withdrawal – to indicate the criteria defined by the Board of Directors of Banco Popolare and by the Management Board of BPM and, after consulting the relevant boards with controlling functions, referring to the (partial, or, if applicable, full) limitation of the reimbursement of shares under withdrawal that have not been purchased by other shareholders or by the market (without prejudice to the fact that, as explained before, the decision shall rest with the competent boards of Banco BPM).

More particularly, in light of the carried out and analytically explained considerations in the Banco's Illustrative Report and in the comparable illustrative report approved by the BPM's Management Body (the "**Illustrative Reports**") – each published on 13 September 2016 – the following criteria have been identified on the base of which we shall be complied for the limitation of the reimbursement of the remaining shares:

- (i) at the date on which the competent corporate bodies of Banco BPM will have to decide whether to limit (partially or, if appropriate, fully) the reimbursement of the shares for which the right of withdrawal has been exercised, the "pro-forma" fully loaded CET 1 ratio of Banco BPM will be estimated. This estimate will be based on the most recent regulatory capital ratios respectively of Banco Popolare and BPM and will reflect the expected impacts in order to guarantee compliance with the conditions indicated by the European Central Bank ("**ECB**"), the impacts consequent to the recognition of the Merger in accordance with IFRS 3, and the impacts consequent to the non-recurring charges and investments to be sustained in pursuit of the objectives of Banco BPM's strategic plan, approved by the management bodies of the two banks and presented to the market on 16 May 2016 (the "**Strategic Plan**");
- (ii) the estimated fully loaded CET 1 ratio indicated at point (i) hereinabove will then be compared with the "pro-forma" fully loaded CET 1 ratio that will be identified by the competent corporate bodies of Banco BPM as the minimum level below which it is deemed that the aforementioned indicator shall not fall as a result of the reimbursement of the shares for which the right of withdrawal has been exercised. In the determination of such minimum level the contents of the Strategic Plan of Banco BPM – submitted to the ECB as part of its review leading to the obtainment of the authorization of the Merger and that, as already announced to the market, calls for achieving a fully loaded CET 1 ratio of 12.9% at the end of 2019 – will be duly considered as well as the overall economic, financial, liquidity and solvency situation existing at the time of the decision and the most updated forecasts on its evolution, the market risks, any additional instructions that might be received from the Supervisory Authority, the expected impacts in consequence of the new and more challenging regulatory requirements that are announced by the regulator, or otherwise foreseeable, and the levels of the abovementioned indicator referred to the principal European and Italian banks that are of the same size or bigger than Banco BPM.

Therefore, considering the amount of the shares for which the right of withdrawal will be exercised and the outcome of the Pre-emptive Offer and to the market pursuant to Article 2437-*quater*, Paragraphs 1 to 4, of the Italian Civil Code, it will be evaluated whether their reimbursement is compatible with the aim of maintaining the fully loaded CET 1 ratio indicated at point (i) above the minimum level of that same indicator as determined in accordance with what is described at point (ii) hereinabove.

On the basis of all the foregoing and the illustrated criteria, it is pointed out that there might not be the conditions for Banco BPM to be allowed to make available its own resources for the reimbursement of the shares for which the right of withdrawal has been exercised and not taken up in the Pre-emptive Offer and to the possible Offer on the Market, when it is carried out.

As regards the criterion that would be followed by Banco BPM to allocate – amongst the members and the shareholders of the two banks participating in the Merger that have exercised the right of withdrawal – any amount that might be made available, by applying the aforementioned criteria, for the reimbursement of the shares for which the right of withdrawal has been exercised and which will not be purchased by the other shareholders or by the market, Banco BPM will proceed on the basis of the Relative Contributions (as indicated at Paragraph 4.2 of the Banco's Illustrative Report), regardless of the total amount of shareholders and members of the two banks that have exercised the right of withdrawal and the ratio between the amount of withdrawals pertaining to each of the two banks. Once the amount available to each of the two groups of members and shareholders of the two banks that have exercised the right of withdrawal is known, the exact number of Banco Popolare and BPM shares

to be reimbursed (as exchanged for shares of Banco BPM) will be determined. This determination will be carried out by dividing the amount available to the former members and shareholders of Banco Popolare that have exercised the right of withdrawal and the former members and shareholders of BPM that have exercised the right of withdrawal, respectively, at the withdrawal price applicable to each of these two groups.

The shares that might be reimbursed in application of the criteria determined hereinabove will be fully liquidated to those entitled – on condition of obtaining the authorizations required to reduce its own resources for reimbursement of the Tier 1 core capital instruments envisaged in Articles 77 and 78 of Regulation (EU) no. 575/2013 (CRR) – while the non-reimbursed shares – exchanged for shares in Banco BPM on the basis of the exchange ratios determined with the Merger – will be made available again to the shareholders that have exercised the right of withdrawal once the legal procedures have been concluded. With respect to these last shares, it is noted that listing of the shares of Banco BPM will allow the shareholders to trade the stock directly on the market and monetize their own investment if and when they decide to.

This communication is being also published on the corporate website [www.bancopopolare.it](http://www.bancopopolare.it) as well as, on 26 October 2016, in the daily newspapers *Il Sole 24 Ore* and *MF*.

Verona, 25 October 2016

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Fine Comunicato n.0958-234

Numero di Pagine: 9