



NEW RULES ON THE BANK ACCOUNT IN RED: THE DUTIES OF THE CONDOMINIUM ADMINISTRATOR

With the arrival of the new year comes an unwelcome surprise for Italian families and businesses: in fact, the rules for the management of red accounts change.

Automatic debits will no longer be allowed if customers do not have sufficient cash on their current accounts.

If customers will not have enough cash on their bank accounts, there is a real risk of a sudden stop to payments of cutting tools for ze, social security contributions and the funding rate. Banks will be able to automatically suspend the Rid, that is the tool that allows us to debit the utilities from the current account.

The new rules for red current accounts.

In fact, starting from 1 January 2021, Italian credit institutions will have to apply the new rules on current accounts in red established by the EBA - European Banking Authority.

In particular, the European Banking Association has decided to block the Rid and report the customer to the central risk office in the event of three missed monthly payments of at least 100 euros.

In a difficult economic context like the current one, this decision risks weighing heavily on families and businesses, which are grappling with serious liquidity problems due to the economic consequences related to the Coronavirus pandemic.

Those who are struggling with the loss of work or with the decrease in turnover due to the various closures according to the geographical areas and according to the periods, will have to continue to pay the installments of the mortgage, loans, bills and domestic users without being able to count on the help of the current account overdraft.

This is a particular form of financing that the bank grants to its customer in order to make any type of payment, checks, wire transfers, withdrawals even in the event of lack of funds in the account.

What is likely to go red.

According to the new Eba rules, from January 2021 the account holder who does not have sufficient funds for more than 90 days to pay the small sum of 100 euros will see the Rid - Direct interbank relationship blocked, i.e. the service with which the customer automatically authorizes his own bank to accept debits from a particular creditor on its current account, such as the bank domiciliation of households. The Rid is mainly used to make periodic payments such as bills, mortgage or financing installments, rents, salaries, social security contributions, etc.

Not only will the Rid be blocked, the bank will be obliged to report the customer to the central risk office with the consequent registration of the account holder in the black list of bad payers, an event that will make any request for financing by the account holder going in red much more complicated .

A non-payment of 100 euros, protracted for three months, causes the account holder to be classified as a bad payer, consequently all his exposure to the bank will be classified as impaired credit or non-performing loan (Npl).

These rules will impact not only on families and businesses but also on that social microcosm called condominium.

The duties of the administrator with reference to the current account.

First of all, it is necessary to understand what the administrator has the obligation to do with the condominium current account in order to understand what the violations that the manager of the common good can commit may be.

In a nutshell, we remind you that the administrator has the obligation to :

- open a current, bank or postal account for each condominium that manages, which must therefore be specific for each property;
- to use the condominium current account exclusively for each incoming and outgoing sum, with the consequence that, for example, if the administrator receives the payment of condominium fees from a condominium, he cannot use that money immediately to pay a supplier but will have to send it through the account first;
- manage the condominium current account in such a way as to prevent any possibility of confusion between the assets of the condominium and the personal assets or of other condominiums.

Whenever the administrator violates one of these fundamental rules, he expresses his responsibility, with the consequence that he will have to answer to the administered ones.

Is the administrator responsible for the overdraft of the condominium account?

The administrator is responsible for the liabilities of the current account of the condominium when the manager has not fulfilled the collection of the condominium fees by all the condominiums, thus causing the absence of the necessary funds on the current account for the payments of the suppliers or services, such as electricity bills or central heating costs.

A concrete example is found in a very recent ruling by the Court of Massa, sentence no. 15/2020, which sentenced an administrator to pay compensation for damages in favor of the administrators for failing to collect condominium fees and, thus, having caused the creation of 'unjustified liabilities' on the current account.

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