

22 May 2020

Law Decree no. 34 of 19 May 2020: support measures through the banking system

SUPPORT MEASURES FOR ENTERPRISES AND ECONOMY

<p>Patrimonio rilancio¹</p>	<p>Cassa Depositi e Prestiti S.p.A. ("CDP") is entitled to constitute dedicated estates (<i>patrimoni destinati</i>), for a 12-year term, consisting in assets and legal relationships provided by the Italian Ministry of the Economy and Finance ("Patrimonio Rilancio").</p> <p>The beneficiaries of the interventions carried out by CDP must be joint-stock companies: (i) having their registered office in Italy; (ii) not operating in the banking, financial or insurance sectors; and (iii) having an annual turnover exceeding EUR 50 million.</p> <p>Preferentially, CDP must operate by means of subscription of convertible bonds, participation in capital increases and purchase of shares listed on the secondary market in case of strategic transactions.</p> <p>By operation of law, the investment transactions carried out by CDP using the Patrimonio Rilancio (and any other relating transactions) do not trigger any contractual and/or statutory change of control clauses or equivalent provisions.</p> <p>Loans and guarantees granted, and deeds and payments made in relation to the Patrimonio Rilancio may not be subject to claw-back action pursuant to the Bankruptcy Law² and by the so-called Crisis and Insolvency Code³ (once it will have been entered into force).</p>
<p>Non-performing securitization guarantee ("GACS") provisions⁴</p>	<p>The "Rilancio" Decree regulates certain aspects regarding the Italian State guarantee issued (or to be issued) in the relation to securitization transactions of non-performing loans (the so-called "GACS", as regulated under the Italian Law Decree no. 18/2016, as converted into law by Law no. 49/216).</p> <p>The Italian Ministry of Economy and Finance is entitled to authorize any amendment to the terms and conditions of the notes or to the relevant transaction documents, providing for the temporary suspension of the mechanisms for subordination and deferral of payments due to the servicers for one or more payment dates, where:</p>

¹ Article 27 (*Patrimonio destinato*) of the "Rilancio" Decree.

² "Bankruptcy Law" means the Royal Decree 16 March 1942, no. 267.

³ "Consolidated Insolvency Code" means the Legislative Decree 12 January 2019, no. 14.

⁴ Article 32 (*Disposizioni in materia di Garanzia cartolarizzazione sofferenze – GACS*) of the "Rilancio" Decree.

	<p>(i) the suspended payments should have been made between the date of entry into force of the “Rilancio” Decree and 31 July 2021;</p> <p>(ii) the changes do not trigger a downgrade of the Senior Notes; and</p> <p>(iii) the temporary suspension is determined by the slowdown in the collections of the underlying receivables, due to the measures introduced to deal with the epidemiological emergency COVID-19 (e.g., suspension of deadlines and judicial activities).</p>
<p>SACE guarantee in favour of trade credit insurance enterprise ⁵</p>	<p>SACE S.p.A. is entitled to issue a guarantee within the maximum amount of EUR 2,000 million in order to maintain the trade continuity and to ensure the availability of trade credit insurance services.</p> <p>The guarantee is equal to 90% of the claims deriving from trade credit exposures accrued from the date of entry into force of the “Rilancio” Decree until 31 December 2020.</p> <p>The beneficiaries of the guarantee are the authorised short-term trade credit insurance enterprises. In order to benefit from the guarantee, such entities will have to enter into a guarantee agreement in a form approved by SACE S.p.A..</p> <p>The Decree also provides that the obligations of SACE S.p.A. relating to such guarantees are, in turn, counter-guaranteed by the Italian State. This counter-guarantee is without recourse, explicit, unconditional and irrevocable.</p> <p>The Decree establishes a special section of the so called “<i>Garanzia Italia</i>” fund (Article 1, paragraph 14, of Law Decree no. 23 of 8 April 2020); such special section covers the guarantees relating to the trade credit insurance enterprise, with an initial endowment up to EUR 1,700 million for the year 2020.</p>
<p>Further relevant provisions</p>	<p>Further support measures have been provided by the “Rilancio” Decree:</p> <ul style="list-style-type: none"> ▪ refinancing of certain funds (e.g., increase of the SME Guarantee Fund⁶ of EUR 3,950 million for the year 2020)⁷; ▪ authorisation for acceding to the Pan-European Guarantee Fund established by the European Investment Bank Group⁸; ▪ authorisation for acceding to the International Finance Facility for Immunization⁹; ▪ establishment of the Technology Transfer Fund (<i>Fondo per il trasferimento tecnologico</i>), with an endowment of EUR 500 million for the year 2020¹⁰; ▪ establishment of the Fund for the safeguarding of employment levels and the

⁵ Article 35 (*Garanzia SACE in favore delle assicurazioni sui crediti commerciali*) of the “Rilancio” Decree.

⁶ Being the guarantee fund set forth in Article 2, paragraph 100, letter a), of Law no. 662 of 23 December 1996, established to facilitate the access of SMEs to financial credit, by issuing a public guarantee in addition to (or as an alternative to) the securities created by the SMEs themselves to secure the obligations arising from loans granted by banks or, *inter alios*, financial intermediaries.

⁷ Article 31 (*Rifinanziamento fondi*) of the “Rilancio” Decree.

⁸ Article 36 (*Partecipazione al Fondo di Garanzia pan europeo della Banca Europea per gli Investimenti e allo strumento di sostegno temporaneo per attenuare il rischio di disoccupazione nello stato di emergenza (SURE)*) of the “Rilancio” Decree.

⁹ Article 37 (*Partecipazione dell'Italia all'International Finance Facility for Immunization*) of the “Rilancio” Decree.

¹⁰ Article 42 (*Fondo per il trasferimento tecnologico e altre misure urgenti per la difesa ed il sostegno dell'innovazione*) of the “Rilancio” Decree.

continuation of business activity (*Fondo per la salvaguardia dei livelli occupazionali e la prosecuzione dell'attività di impresa*), with an endowment of EUR 100 million for the year 2020¹¹;

- amendments in relation to export and internationalisation (e.g., increase of the Integrated Promotion Fund (*Fondo di promozione integrate* - see Article 72 of Law Decree no. 18 of 17 March 2020) of EUR 250 million¹²); and
- the Italian Ministry of Economy and Finance is entitled to grant a State guarantee in relation to newly issued liabilities of Italian banks, subject to compliance with certain terms and conditions¹³.

The “Rilancio” Decree also introduces general regulatory framework for regional support measures to be implemented within 31 December 2020 (e.g., granting guarantees on loans to enterprises¹⁴, measures aimed at applying subsidised interest rates for loans to enterprises¹⁵, etc.).

In this respect, the “Rilancio” Decree sets forth certain limits and conditions in compliance with the European and national frameworks (e.g., the above measures may not be granted if the enterprises were already distressed (*in difficoltà*) pursuant to the applicable European legislation as at 31 December 2019¹⁶).

In any case, the implementation of the above provisions entirely depends on the local and regional authorities.

¹¹ Article 43 (*Fondo per la salvaguardia dei livelli occupazionali e la prosecuzione dell'attività d'impresa*) of the “Rilancio” Decree.

¹² Article 48 (*Misure per le esportazioni e l'internazionalizzazione*) of the “Rilancio” Decree.

¹³ Articles 165 (*Garanzia dello Stato su passività di nuova emissione*), 166 (*Condizioni*) and 167 (*Rinvio al decreto legge 23 dicembre 2016, n. 237, convertito, con modificazioni, dalla legge 17 febbraio 2017, n. 15*) of the “Rilancio” Decree.

¹⁴ Article 55 (*Aiuti sotto forma di garanzie sui prestiti alle imprese*) of the “Rilancio” Decree.

¹⁵ Article 56 (*Aiuti sotto forma di tassi d'interesse agevolati per i prestiti alle imprese*) of the “Rilancio” Decree.

¹⁶ Article 61 (*Disposizioni comuni*) of the “Rilancio” Decree.

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