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The growth of Italian private markets: an overview on permanent vehicles, club deals and SPACs

Private markets have seen an unprecedented growth triggered by the macroeconomic scenario. There has been an exponential expansion of private markets deals with a subsequent increase of investment opportunities in private assets with a risk/return profile better suited to deal with the expected uncertain and volatile scenarios of public markets. However, the lack of specific regulations makes the exploitation of, and access to, investments in private opportunities difficult. In fact, existing alternative investment opportunities can only be subscribed by a limited number of professional investors. This article analyses some of the new market trends in Italy and solutions aimed at investing in private markets through listed vehicles, including permanent capital PE vehicles and Special Purpose Acquisition Companies (SPACs).

1. Private markets are going mainstream

Private markets completed an impressive decade of growth. Private market assets under management (AUM) grew by 10% in 2019 and $4 trillion in the past decade, an increase of 170%, while the number of active private equity (PE) firms has more than doubled and the number of US sponsor-backed companies has increased by 60%. Over that same period, global public market AUM has grown by roughly 100%, while the number of US publicly traded companies have stayed roughly flat (but is down nearly 40% since 2000) (Source: McKinsey Global Private Markets Review 2019 and 2020).

In Italy there has been a strong concentric push, on the one hand, (i) to channel part of Italian savings towards the so called “real economy” (in particular, towards innovative SMEs and start-ups) and, on the other hand, (ii) to strengthen the alternative financing sources for SMEs (which are, more and more, willing to raise capital through private equity and private debt funds). In a nutshell, private markets have been becoming more relevant in Italy than ever.

In this scenario, market participants increasingly have called for the expansion of such investment opportunities for “private” investors (in particular, high net worth individuals and affluent rather than mass retail clients) seeking asset classes with a risk/return profile more suitable to face the predicted uncertain and volatile scenarios of public markets. However, the lack of access to investments in private funds is contributing negatively to this trend. Indeed, existing alternative investment funds can be mostly subscribed by a limited number of Italian (sophisticated) professional investors.

2. Permanent Vehicles

In this scenario, making private market mainstream requires lawyers to create new investment structures and solutions: the listing on the so-called Market Investment Vehicles (MIV), organized and managed by the Italian Stock Exchange, represents a possible case study, being one of the most innovative models to enlarge access to private markets to new classes of investors.

The listing of NB Aurora – on which our firm (Gianni & Origoni) provided legal assistance to the underwriters – represented the first pioneer deal in Italy. In particular, NB Aurora is the first permanent capital PE vehicle listed on the MIV in Italy, which was established by US asset manager Neuberger Berman with the aim of acquiring minority stakes in unlisted top-notch Italian SMEs in order to support their growth and internationalization process by (i) investing with a medium-long term horizon and (ii) supporting entrepreneurs, as their partner, in strategic and management choices. In a nutshell, NB Aurora is a public company by means of which investors would have access to a diversified portfolio of unlisted Italian SMEs.

Such transaction – which involved four different jurisdictions (US, Italy, UK and Luxembourg) – showed all the potentials of MIV in Italy, which represents a "meeting place" that brings together alternative asset managers of the most diverse asset classes (including private equity, private debt, infrastructure and venture capital) and "patient" investors, ensuring a continuous price formation together with a new trading system anchored to NAV. We expect that further initiatives would follow the course of NB Aurora, while others pursue different structures.

3. Club Deals and other alternative structures

The listing of PE vehicles is not the only option though. Several asset managers are working at the structuring of new private market funds tailored for non-professional investors (e.g., ELTIF or master-feeder structures).

We are also seeing a strongly growing interest from private investors in investing in club deals in Italy, that is entrepreneurs look favorably to structures that allow deciding on a "deal-by-deal" basis and, therefore, whether investing in private equity or not. As opposed, a traditional alternative investment fund assumes – unlike club deals – full "trust" and reliance on the manager with which all investment choices are entrusted according to an investment policy and a predefined strategy. Therefore, club deals could then represent a suitable alternative option for private investors with strong experience and ability to make closer assessments on a "deal-by-deal" basis.

4. Special Purpose Acquisition Companies

The phenomenon of Special Purpose Acquisition Companies (SPACs) in Italy grew in the past few years.

A Special Purpose Acquisition Company ("SPAC") is a vehicle established by a group of "sponsors" in the form of a joint stock company ("società per azioni") to raise funds from financial experienced investors (through an initial public offer) with a view to acquiring an unlisted company, typically of a small-medium size ("target").

The incorporation of a SPAC is generally promoted by sophisticated investors with a large network of contacts, recognized business management skills and a track record in M&A, private equity or hedge funds. The founding shareholders provide the initial capital needed for the SPAC's growth until its listing. Following the incorporation of the SPAC, the sponsors then resolve upon a capital increase for the purposes of its listing and aimed at providing the SPAC with the resources needed to subsequently make an investment into a target.

After having selected the target, the transaction ("business combination") is submitted to the approval of the shareholders' meeting of the SPAC so that investors can assess and control how the managers of the SPAC intend to use the funds, thus mitigating one of the main risks related to the investment given the lack of past performance of the company. Also, a right of withdrawal is afforded to those shareholders in disagreement with the proposed business combination.

Should no business combination be completed, the SPAC is liquidated and investors face a potential loss of part of their initial investment – which may vary depending on the percentage of IPO proceeds deposited into the escrow account – given that the paid-up capital is returned, pro-quota, but net of all the expenses. Furthermore, since the sponsors of a SPAC do not receive any predetermined remuneration or management fee – whilst they are remunerated only at the time of the business combination through warrants enabling them to subscribe shares at advantageous conditions – should the business combination fail no remuneration is granted to them.

The investment in the target can be made in various ways although the market practice in Italy has shown that usually the target (i) merges with and into the SPAC and (ii) becomes a "listed company". As an alternative should rather be the SPAC merging with and into the target, the shareholders of the SPAC would receive, in exchange, shares of the target which – in the meantime – shall have completed the listing process.

Regarding the possible listing market venues, after the introduction in Italy of (i) a multilateral trading facility named "*Alternative Investment Market*" (AIM Italia) and (ii) a dedicated regulated market segment named "*Market for Investment Vehicles*" (MIV), it has become possible to list a shell company in the form of a SPAC.

The decision to list the SPAC on the regulated market (MIV) rather than on the unregulated AIM Italy would essentially depend on the size and the main characteristics of the SPAC itself, it being however understood that – so far – the listing on AIM Italy represents the more frequent option, due also to the easier access to AIM Italy vs. MIV in terms of timing and underlying costs (e.g., the listing of a SPAC on AIM Italy can be even completed in a couple of months or so).

The success of SPACs is, therefore, due also to the appeal that this model has been recognized by investors and targets' entrepreneurs.

As far as investors are concerned, the low risk of the investment, the right of withdrawal and the acquisition of the target carried out at a discount, if compared with the relevant market values, are all factors particularly appreciated.

On the other hand, from the targets' entrepreneurs perspective, the SPAC has the twofold advantage of (i) accelerating the listing process of the target and (ii) mitigating the risk that, at the time of the determination of the IPO price, market adverse conditions may devalue the target. By means of the SPAC model, in fact, the value of the target is agreed between the parties regardless of market conditions.

Therefore, the SPAC scheme may well represent a potential alternative to the traditional model of private equity investment and, therefore, remain an important channel of growth for the Italian economy. Likewise, Italian companies have also started being considered as possible targets of non-Italian SPACs, that is by SPACs incorporated and listed on markets outside Italy, including SPACs listed in the USA.

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