

New measures to incentivize NPL market in Italy

February 2016

On February 10, the Italian Government announced the approval of new measures to address the recent market volatility caused by the banking sector. The newly approved measures introduce, *amongst other things*, (i) a State guarantee scheme to assist Italian banks in securitising non-performing loans, (ii) a more favourable tax regime governing the disposal of real estate assets in court procedures and (iii) a reform of the cooperative banking system.

Italian State guarantee scheme on securitization of non-performing loans

The Government announced the introduction of a State guarantee scheme applicable to Italian banks securitizing non-performing loans. The aim of these measures is to (i) incentivize banks to rapidly address non-performing loans and improve banks' liquidity and (ii) facilitate investors acquisition of non-performing loan portfolios.

The EU Commission cleared the guarantee scheme and approved it on the basis that it does not qualify as State aid.

The scheme applies to notes issued in the context of a securitisation transaction to fund the acquisition of portfolios of non-performing loans from a bank. The new rules allow for the senior securitisation notes to get the benefit of a State guarantee provided that the senior notes have at least an investment grade rating from a rating agency recognised by the ECB and provided that more than 50% of the junior notes have been issued to investors.

The State will charge for the guarantee and the cost of the guarantee will be set based on the cost of credit default swaps of Italian companies with rating equal to the rating of the secured notes.

The new rules also define:

- the features that the transaction and the notes must have to be eligible to benefit from the State guarantee;
- the procedure to apply for the State guarantee; and

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- the procedure for the enforcement of the State guarantee.

Favourable tax regime for the disposal of real estate as part of enforcement procedures

In order to facilitate the collection of non-performing loans, the registration tax (*imposta di registro*) rate applicable to the disposal of real estate assets through enforcement procedures is to be reduced from 9% of the value of the transferred real estate asset to a flat rate of Euro 200.

The favourable tax rate applies only if the real estate is re-sold within 2 years.

Reform of the cooperative banking system

Material changes have been introduced to the regime which governs the cooperative banking sector.

In particular, cooperative banks are required to either (i) join a group of cooperative banks controlled by a joint stock company (*società per azioni*) with a capitalization of at least 1 billion Euros or (ii) transform into a joint stock company provided that they have at least 200 million in reserves and pay an extraordinary tax equal to 20% of such reserves.

The holding company will direct and coordinate the activities of the cooperative banks within the group, based on specific agreements setting out the role of the holding company.

The majority of the corporate capital of the holding company would be held by the cooperative banks belonging to the group. The remaining portion could be held by similar entities, European cooperative banking groups and foundations, or placed on the market.

Additional measures are introduced to increase the capitalization of cooperative banks.

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The law decree whose approval has been announced by the Italian Government has not been published yet and we will complete our analysis of the potential impact of these new measures once the text of the law decree becomes available.

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