MAYER • BROWN

Summary of Government Interventions in Financial Markets
Italy

Overview

In the framework of the coordinated approach of the euro area Member States and in particular in the light of the conclusions of the Ecofin meeting of 7 October 2008, the Italian Government adopted extraordinary measures to protect the financial sector and prevent recession.

The main measures included:

- guarantees of bank liabilities;
- increase of retail deposit guarantees;
- Banca d'Italia assistance measures; and
- bank recapitalisation through equity investments by the government.

State guarantees, recapitalisation and refinancing measures

On 4 December 2008, the Italian parliament enacted Law No 190/2008 ("**Law 190**") to formalise the urgent measures provided by Law Decree No 155/2008 and Law Decree No 157/2008, which had been issued by the Italian government in an attempt to guarantee the stability of the banking system and the provision of credit to businesses and consumers.

as at 19 March 2009

Under Law 190:

Recapitalisation

(a) the Italian Ministry for Economic Affairs and Finance ("MEF") is authorised to subscribe or guarantee the subscription of capital increases of Italian banks, provided that Banca d'Italia has:

(i) ascertained the capital inadequacy of the subject bank;

(ii) assessed as adequate the bank's stabilisation and reinforcement plan of at least 36 months' duration; and

(iii) assessed as adequate the dividend policy adopted by the bank for the term of the guarantee;

Extraordinary administration

(b) an extraordinary administration procedure is provided in the case of illiquidity of a solvent bank whose 'serious crisis situation' poses a threat to the stability of the financial system. The management of such bank is replaced by temporary commissioners appointed by MEF, which is allowed to subscribe to capital increases of the bank under extraordinary administration, even if such procedure is still pending;

Banca d'Italia loans guarantee

(c) in the event of severe liquidity crisis, MEF may issue a guarantee for any refinancing provided by Banca d'Italia to banks incorporated in Italy as well as to branches of foreign banks in Italy;

Deposit guarantee

(d) MEF is entitled to provide a state guarantee in favour of depositors with Italian banks for a period of 36 months from 9 October 2008 (the maximum amount of the guarantee is not specified). This guarantee is in addition to the existing deposit guarantee equal to a maximum of EUR 103,291.38 per depositor; and

Refinancing

Until 31 December 2009, MEF is authorised:

(i) to provide a state guarantee, on market terms, for liabilities of Italian banks issued after 13 October 2008 and with a maturity of up to 5 years;

(ii) to enter into temporary swap arrangements between government bonds and financial instruments held by Italian banks or liabilities of Italian banks with a maturity of up to 5 years and issued after 13 October 2008. Charges to be applied to banks under these arrangements will be determined according to prevailing market conditions; and

(iii) to provide a state guarantee, on market terms, with regard to the operations by Italian banks in order to obtain the temporary availability of securities eligible for refinancing operations with the Eurosystem.

The above guarantees require an assessment by Banca d'Italia of the capital adequacy of the applicant bank and are supposed to reflect 'market conditions' and to be applied using the same evaluation criteria that Banca d'Italia uses when providing assistance to banks that need to recapitalise.

Law 190 does not specify the amount of the guarantees or financing to be provided and, according to the Italian government, the aid package will be worth as much as is necessary.

Also, under Law 190, the programme, which is limited in time and scope, has extended the state guarantee to bond issues by Italian qualifying banks with a bonds' maturity falling not earlier than 3 months and not later than 5 years from the date of issuance.

Sale of bonds to the government

On 25 February 2009, Italy's Finance Ministry approved a plan to help banks strengthen their capital reserves and encourage them to lend amid the global financial crisis.

Finance Minister Giulio Tremonti signed a decree enabling the country's banks to raise money by selling bonds to the government which is ready to buy about EUR 12bn (USD 15.4bn) of bonds, a ministry official said.

One of the conditions attached to the plan is that banks continue lending to small and medium-sized businesses, which are the backbone of Italy's economy. The government has said local authorities will monitor banks' willingness to lend. Issuers will also be asked to continue lending at the same rates as in 2007 and 2008.

For workers on temporary layoffs or who are collecting unemployment benefits, banks should suspend their mortgage payments for "at least 12 months", officials at the Finance Ministry said.

The coupons on the bonds will start at 7.5 per cent. to 8.5 per cent., and will "grow gradually", according to the Finance Ministry.

Private investors along with the government will be able to buy the bonds, provided they don't own more than 2 per cent. of the existing stock of the company. The bonds will pay interest of 200 basis points more than the average rate on 30-year government bonds.

Swap facilities

On 13 October 2008, Banca d'Italia announced, in order to increase the recourse of banks operating in Italy (both Italian banks and subsidiaries of foreign banks in Italy) to the European Central Bank:

(a) the reduction, with immediate effect, of the minimum threshold for loans to be issued for refinancing transactions, from EUR 1m to EUR 500,000; and

(b) the implementation of a temporary exchange program between government securities held by Banca d'Italia and assets held by Italian banks. The temporary exchange program is capped at EUR 40bn, has a maturity of one month and is remunerated with a fee of 1 per cent. per annum.

Notable developments with commercial banks

Unicredit SpA

UniCredit SpA will ask for up to EUR 4bn from Austria, Italy and other investors as a key capital ratio fell short.

Italy's second-biggest bank by market value, which is the top lender in central and eastern Europe, a region hit hard by the financial crisis, opted to pay its dividend in shares rather than cash to preserve its capital.

UniCredit SpA, which owns Bank Pekao SA, Poland's largest lender, and banks in countries including Ukraine, Hungary, Romania and Slovakia, generated 44 per cent. of its pretax profit from central and eastern Europe during the first nine months of last year. European banks may need to raise as much as EUR 40bn of capital by 2010 because of loan losses in the area, JPMorgan Chase & Co. wrote in a March 5 note.

The board mandated Chief Executive Alessandro Profumo to negotiate up to EUR 4bn in capital from Austria, Italy and private investors, it said in a second statement.

Austria's finance ministry said it will expect UniCredit SpA to inject capital into local unit Bank Austria as well if it applies for government capital.

Intesa San Paolo

The bank, which is Italy's biggest bank by market value, is likely to issue EUR 3bn (USD 3.81bn) in bonds. Based on that figure, the bonds will raise Intesa Sanpaolo's Core tier 1 ratio by 0.75 percentage points to 6.99 per cent., Exane BNP Paribas said in a research report. Chairman Giovanni Bazoli has said Intesa Sanpaolo will examine the bond details and make a decision quickly.

Banco Popolare SC

Banco Popolare SC, a medium-sized lender based in northern Italy, is the first bank seeking aid from the Italian government's EUR 12bn scheme. But it has become the target of a political controversy because of a proposal by the finance ministry to give state-appointed officials at the provincial level a role in monitoring how banks lend in the recession. The Bank of Italy is resisting the monitoring initiative.

Popolare's bond sale will total EUR 1.5bn (USD 1.9bn).

Banco Popolare SC owns 31 per cent. of Banca Italease SpA and is in the process of buying Italease in a EUR 179m (USD 227m) offer, delist the company and reorganize its businesses.

Popolare will pay EUR 1.5 per share for Italease, a 13.6 per cent. premium on the bank's March 13 closing price. The offer is conditional on Popolare reaching a 90 per cent. stake.

Popolare, Banca Popolare dell'Emilia Romagna Scrl, Banca Popolare di Sondrio Scrl and Banca Popolare di Milano Scrl will tender their Italease shares and help reorganize it into new companies. These units will hold Italeases's non-performing loans, debt and assets, according to statements from the banks.

Italease, whose management was forced to step down in 2007 because of a probe into derivatives contracts, said in a March 14 statement that its capital may fall below regulatory limits due to EUR 850m of writedowns last year.

Summary of proposed key legislation/regulation

The Italian Parliament has approved a new stimulus package on 26 January 2009 but there was no specific sum to help recapitalise the country's banks. Details of this package are yet to be released.

Other developments

Short selling

The Italian government has implemented a short selling crackdown. The Consob prohibition on naked short sales of shares issued by banks and insurance companies listed and traded on the Italian regulated markets came into force on 23 September 2008 and was initially supposed to remain in force until 31 October 2008. The prohibition provides a different regime for (i) shares listed and traded on the Italian regulated markets and (ii) shares issued by banks and insurance companies, by the companies specified in the resolution or by companies increasing their capital.

Consob resolved to extend until May 31 2009 the prohibition of short sales expiring on February 28 2009, without amendments to the previous resolution.

According to the resolution dated January 29 2009, the sale of shares issued by banks and insurance companies or by the relevant holdings and issued by companies increasing their capital which are listed and traded on a regulated market, shall be supported, from the moment of the order up and until the date of the settlement of the transaction, by both the availability and the ownership by the ordering party of the relevant securities.

As regards the remaining shares listed and traded on a regulated market, the sale shall be supported by the availability of the securities.

Detailed information about the short selling prohibition are available on:

http://www.consob.it/main/aree/novita/comunicato_20090226.htm

Collateralized Interbank Market (MIC)

Banca d'Italia, together with e-MID and the Italian Banking Association, has prepared an initiative to enable market participants to trade funds through a procedure that minimizes counterparty and liquidity risks. The initiative is based on the creation of a special market segment in the e-MID trading platform, the MIC, which ensures complete anonymity of trades. Initially, the new market segment will handle trades on maturities of one week and longer. The new market segment will be operating until 31 December 2009, but its activity could continue beyond that date, with appropriate modifications, once more relaxed market conditions are restored.

In the new interbank market segment's operational scheme, Banca d'Italia:

- evaluates the collateral provided by banks;
- verifies that trades comply with established limits and conditions; and
- ensures the prompt settlement of transactions in the event of default by a participant, and subsequently recovering the amount from the collateral deposited.

The scheme is open to any EU credit institution which satisfies a limited set of conditions equal for all participants.

In the new scheme, Banca d'Italia does not act as a market-maker of last resort. Market prices and trades are driven only by market participants. Banca d'Italia's role is of a facilitator of trading, managing the custody of collateral, administrating and assessing the collateral, ensuring prompt settlement of transactions in the event of default by a participant, and subsequently recovering the amounts from the collateral deposited.

Banks' exposures will be correlated to their regulatory capital (up to a maximum of 30 per cent. and in any case no more than EUR 5bn) and cannot exceed the value of the collateral deposited with Banca d'Italia (with appropriate haircuts). Moreover, the scheme imposes a concentration limit of the individual exposure (20 per cent.) and envisages a partial sharing of default risk. In the unlikely event that the collateral provided was insufficient, the other market participants would jointly make up the difference within the limit of 10 per cent. of their collateral. No fiscal back-up on behalf of the Italian Treasury is envisaged.

According to the Banca d'Italia, as of 13 February 2009 there were 38 participants in the new scheme with deposits' value of EUR 512m.

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