MAYER • BROWN

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Summary of Government Interventions
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.

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

(e) 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 accord ing 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 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, the Italian bank that has expanded most strongly abroad, had its credit ratings cut by Fitch Ratings because of its "exposure to emerging markets in Europe" and the impact of the economic slowdown on Italy and Germany.

The bank's long-term issuer default rating was reduced to A from A+, with a negative outlook and its Individual Rating was cut to C from B/C, Fitch said on 16 April 2009.

In addition to the credit ratings cut, Unicredit announced recently that it faced a claim for more than $360 million in the U.S. State of New Mexico. The claim relates to the sale of collateralised debt obligations (CDOs).

On 8 April 2009, key shareholders nominated Libya's central bank governor Farhat Omar Bin Guidara for a seat on Unicredit's board. The nomination was shown on the bank's website.

Libya has bought a 4.6 per cent. stake in Unicredit. It came to Unicredit's rescue earlier this year by helping plug a shortfall in capital raising efforts left when another Italian foundation decided not to take up its share.

Unicredit saw net profit plunge 38 per cent. to EUR 4.01bn in 2008 as a result of the financial crisis.

Intesa San Paolo

Intesa San Paolo's Chief Executive confirmed on 3 April 2009 that the bank aims to complete the purchase of Assicurazioni Generali SpA's stake in their bancassurance joint venture Intesa Vita by the summer.

The reorganisation of Intesa San Paolo's insurance business, which comprises four life assurance units, will take the rest of the year, Passera added.

On 20 March 2009, Intesa San Paolo lined up for EUR 4bn in state aid and joined a growing list of companies that have cancelled paying a dividend in order to bolster their capital.

The bank will issue EUR 4bn of subordinated debt instruments to be subscribed by the Italian Treasury.

Banco Popolare SC

Banco Popolare results in the first two months of the year were "satisfactory", the Italian bank's Chief Executive Pierfrancesco Saviotti said in an interview published on 1 April 2009.

In 2008, Banco Popolare reported a net loss of EUR 333m after booking EUR 2.4bn of impairment charges and provisions, and against 2007's net profit of EUR 635m.

Mr Saviotti said the only major asset being sold is investment bank unit Efibanca, adding that the bank will see what offers there are after the end of talks with Italian cooperative banking company Iccrea.

Banca Popolare di Milano

On 25 March 2009, Banca Popolare di Milano Scrl, an Italian regional bank based in Milan, announced its intention to sell EUR 500m of convertible bonds to the government after posting a 77 per cent. slide in full-year profit.

The company said it will seek to pay back the bonds sold to the government within four years. The convertible bonds sold into the market will convert into ordinary shares by June 2013.

UBI Banca

UBI Banca, one of Italy's mid-tier banks, announced a deal aimed to strengthen its capital structure. UBI Banca will issue bonds under its existing EMTN programme to buy back preferred shares and five series of lower tier 2 bonds for a maximum of EUR 1.57bn, it said in a statement on 15 April 2009.

Monte dei Paschi di Siena

Monte dei Paschi di Siena ("MPS") aims to boost its Core Tier 1 capital adequacy ratio by as much as 0.5 per cent. through a sale of real estate on its books at EUR 2.2bn.

MPS's Core Tier 1 capital adequacy ratio will rise by 40-50 basis points, based on a sale price for the assets of EUR 2.6bn to EUR 2.8bn. MPS currently has a Core Tier 1 capital adequacy ratio of 6.6 per cent.

MPS is seeking EUR 1.9bn of state aid, but will pay out a small 2008 dividend despite a net profit drop, the bank said on Friday.

Group net profit was EUR 953m, down from EUR 1.37bn the year before, the bank said in a statement. The 2008 figure includes integration charges and asset write downs.

Credem

Italian bank Credito Emiliano SpA sees no need to issue government-backed bonds to boost its capital, Credem Director-General Adolfo Bizzocchi said in a conference call on 31 March 2009.

Bizzocchi confirmed that Credem has an indisputable quality of loans, no tension in its liquidity position, adding that the bank's guidelines for 2009 are confirmed even in the presence of the wider crisis in the financial system.

Earlier, the bank said 2009 results will be lower than planned in its three-year plan and lower than in 2008.

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

According to the resolution dated 29 January 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.

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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