MAYER • BROWN

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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.

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 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 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 do not 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 1 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 USD 360m 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.

On 5 May 2009, Unicredit said it was committed to supporting the "real economy" by announcing that it had already made EUR 4bn in loans to over 38,000 companies through its networks dedicated to retail and corporate banking. The bank said its commitment was also reflected by the launch of "Impresa Italia", a loan programme designed to finance small enterprises. Unicredit, the Trade Associations and Confidi, a credit guarantee association, are providing EUR 5bn in new financing to small enterprises.

On 13 May 2009, Chief Executive Alessandro Profumo of Unicredit said that the Italian bank could participate in the Austrian capital aid scheme for banks in the second quarter and the Italian equivalent in the third quarter.

On 19 May 2009, Finance Minister Giulio Tremonti told reporters that Unicredit, Banco Popolare SC, Banca Popolare di Milano SpA and Banca Monte dei Paschi di Siena SpA have asked for about EUR 6bn from the government aid program.

On 6 August 2009, Unicredit announced that the rating agency Moody's changed the Bank's Financial Strength Rating to C, with negative outlook, from C+.

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 4 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.

On 12 May 2009, it was announced that Intesa San Paolo are still in negotiations with the Italian Treasury in relation to the details of the issue of EUR 4bn of subordinated debt instruments.

On 23 July 2009, Intesa San Paolo and the European Investment Bank concluded four new agreements totalling EUR 470m aimed at providing medium to long-term financing to Italian businesses. Intesa San Paolo has allocated EUR 300m of the total sum of EUR 470m to Italian small and medium-sized enterprises.

Banco Popolare SC

Banco Popolare results in the first 2 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 4 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 5 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 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 ("**Credem**") 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 3-year plan and lower than in 2008.

Other developments

Short selling

The Italian government 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 was initially supposed to remain in force until 31 October 2008 and was extended until 31 May 2009. On 27 May 2009, Consob announced that the anti short selling provisions in place and due to expire on 31 May had been extended with amendments until 31 July 2009.

The Consob press release is available on:

http://www.consob.it/mainen/press_release/comunicato_20090528.htm.

The provisions of the resolution took effect on 1 June 2009. The amendments introduced a new general rule prohibiting the naked short selling on shares of Italian listed companies (and not only banks and insurance companies). Short selling was permitted if the seller was the borrower under a stock lending agreement from the time the short sales order is placed until the time the short sale is settled.

The resolution provided an exception to the general rule whereby all shorts were prohibited on the shares of companies undergoing capital increases as at 1 June 2009. In these cases short selling was only permitted if the seller owns the shares from the time the sale order is placed until the time the sale is settled.

On 3 August 2009, Consob confirmed that the ban on short sales as per resolution of 27 May 2009 expired on 31 July 2009. Pending a harmonised decision on short sales at a European level, Consob resolved not to confirm the temporary regime set forth by the above-mentioned resolution of 27 May 2009.

However, all shorts with regard to companies resolving a capital increase by 30 November 2009 remains permitted only if the seller owns the shares from the time the sale order is placed until the time the sale is settled.

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 1 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.

Loan losses and non-performing assets

On 5 June 2009, Standard & Poor's said that the Italian banks' loan losses and non-performing assets will increase in 2010, reducing the banks' net income in the depth of the recession.

Credit outlook

On 27 May 2009, Moody's Investors Service lowered its credit outlook on the Italian banking industry to negative from stable. According to the rating company, the worsening impact of the financial crisis is putting the financial strength ratings of Italy's banks under pressure as asset quality and profitability deteriorate this year and next. However, Moody's said that the Italian banks are unlikely to need "strong government backing", as the Italian banking system has lower exposure to toxic financial assets, investment banking activities and capital market funding.

Italian Banking Association

On 3 August 2009, the Italian Banking Association ("**ABI**"), Italy's Ministry of the Economy and other commercial bodies came together to arrange a moratorium on repayments of bank loans by small and medium-sized companies.

The moratorium, for a period of 12 months, will suspend capital repayments due on medium-term loans and mortgages. Interest and fee payments must be paid on time.

To benefit from the moratorium, companies should have not more than 250 employees and an annual turnover not greater than EUR 50m. In addition, a company will need to have "good economic prospects" and to have had no overdue debt with its bank as at 30 September 2008.

For the moratorium to be in effect each Italian bank will need to sign the moratorium agreement, at which point customers of such a signatory bank can make their requests for inclusion within the period up to 20 June 2010.

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