Italy COVID-19

Liquidity Support in the *Cura Italia* Decree

On January 31, 2020 the Italian Government declared the state of emergency for a 6-month period as a consequence of the health risk related to the COVID-19 outbreak. The first known Italian infected patient was discovered in mid-February in a small town near Mi-

lan, which was immediately locked down. From that moment on, the Government has adopted several measures, which became

more and more stringent along with the progression of the epidemic now turned into a pandemic.

In particular in order to support households, workers and undertakings caught by the economic downturn triggered by COVID-19, on March 17 the Government adopted the Decree Law No

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18/2020 (so called *Cura Italia*)¹ aimed at injecting a first tranche of €25 billion in the national economy.

At the time of writing the *Cura Italia* Decree (effective as of the date of adoption March 17) shall be converted into law by the Parliament within the 60 days period foreseen by Italian Constitution. The conversion is expected to lead to several amendments, aimed at clarifying and strengthening the provisions released by the Government as requested by opposition parties and economic stakeholders.

With this *caveat* in mind, in the following a brief summary is provided of the main liquidity support measures at stake.

1. Central Guarantee Fund for SMEs (Art. 49)

One of the aims of the *Cura Italia* Decree is to release liquidity to the benefit of undertakings and SMEs in particular that play a key and vital role in the Italian economy. To this end, the *Cura Italia* Decree strengthens the role of the Central Guarantee Fund for SMEs (*Fondo di garanzia per le PMI*)² by allowing for 9 months a relaxation of the applicable rules and namely:

- the guarantees are provided free of charge;
- the maximum guaranteed amount per beneficiary is raised to €5 million;
- for direct interventions, the guarantee may cover 80% of

each financing operation with-in a €1.5 million threshold per beneficiary. For reinsurance, the guarantee is up to 90% of the amount guaranteed by Confidi or another guarantee fund, provided that the latter does not exceed the 80% limit as well as the €1.5 million threshold per beneficiary;

- no commission is due for failure to finalise the financial transactions;
- for real estate investments in the tourism-hotel and real estate sectors, with a minimum duration of 10 years and for an amount above €500,000.00, the Fund's guarantee may be cumulated with other forms of loan guarantees;
- all administrative obligations pertaining to the Fund's activities benefit of a three months extension.

2. State Guarantees for Export Credits (Art. 53) and Foreign Suppliers (Art. 59)

The *Cura Italia* Decree allows the Ministry of Economy and Finance to issue State guarantees in favour of SACE S.p.A. (the Italian Export Credit Agency controlled by Cassa Depositi e Prestiti S.p.A., CDP) in order to support unmarketable risks on export credits in all economic sectors affected by COVID-19. This measure is expected to be clarified in the conversion phase, taking advantage of the guidance provided by the Euro-

pean Commission's Temporary Framework, in particular, as far as export credits are concerned.³

During the emergency period, SACE is moreover authorised to provide guarantees and insurance coverage, this time at market conditions, in favour of the foreign suppliers of goods purchased by the Italian Regions to cope with the sanitary crisis (Art. 59).

3. Tax Credit (Art. 55)

The *Cura Italia* Decree provides a tax credit for payment defaults exceeding 90 days, to the benefit of undertakings that are not in difficulty pursuant to Italian insolvency law. By 31 December 2020, such undertakings may transfer the claims against defaulting debtors for a consideration and transform certain deferred tax assets into tax credits. The tax assets at stake consist of tax losses not yet computed as a reduction in taxable income, and the amount of the notional return exceeding the total net income not yet deducted or enjoyed by means of a tax credit at the date of disposal.

The tax credit operates up to 20% of the nominal value of the claims within a €2 billion threshold. It is not interest-bearing and can be compensated without limitation.

4. Debt Moratorium for SMEs (Art. 56) and the PPE Support (Art. 5)

According to Article 107(3) lett. b TFEU, in order to remedy the serious disturbance in the economy caused by COVID-19, the *Cura Italia* Decree provides further support to micro-enterprises and SMEs with registered office in Italy, whose debt exposures towards banks or other credit insti-

1 Decreto-Legge 17 marzo 2020, n. 18 *Misure di potenziamento del Servizio sanitario nazionale e di sostegno economico per famiglie, lavoratori e imprese connesse all'emergenza epidemiologica da COVID-19*, in GURI Serie Generale No 70 of March 3, 2020.

2 Law No 662/1996.

3 See Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak, C(2020) 1863 final, spec. Sec. 3.5.

tutions are not classified as 'impaired'.

In this respect the Cura Italia Decree provides that:

1. overdraft facilities and loans granted over discount of receivables outstanding as at March 17, 2020 cannot be revoked, in whole or in part, until September 30, 2020;
2. loans with bullet repayments with maturity before September 30, 2020, are extended until September 30, 2020 under the same contractual conditions;
3. payments of instalments and lease payments relating to loans and other financings repayable in instalments (including the so-called *cambiali agrarie* in the agricultural sector) falling due before September 30, 2020 are suspended until the same date. In addition, the repayment schedule shall be deferred without new or increased charges for both parties.

In order to be eligible, the beneficiary shall self-certify (pursuant to DPR No 445/2000) the temporary lack of liquidity due to COVID-19.

Upon request of the financing institution, the aforementioned measures can be assisted by means of a State guarantee up to 33%,

with a duration of 18 months after the end of the moratorium.

At the time of writing, the SMEs' debt moratorium is the second Italian measure to have been authorised by the European Commission under the Temporary framework.⁴

The first emergency State aid, approved on March 22,⁵ consists of a €50 million support scheme for the production and supply of medical devices and Personal Protection Equipment (PPE) to be provided primarily to the healthcare workers as requested by Art. 5 of the Cura Italia Decree. As of March 26, the aid is granted by Invitalia (the National Agency for Inward Investment and Economic Development owned by the Italian Ministry of Economy). It will take the form of direct grants or repayable advances and will be available to companies of all sizes. The beneficiaries shall supply the aforementioned products to the Italian authorities at the market prices applied in December 2019, ie prior to the outbreak in Italy.

5. Guarantees by CDP (Art. 57)

In order to support liquidity to the undertakings affected by COVID-19, CDP shall support banking loans by means of specific instruments including for instance first-loss guarantees. In this case, CDP benefits of a State counter-guarantee up to 80% of the exposure.

6. Internationalisation (Art. 58)

The Cura Italia Decree contains a further measure relating to the Fund for Internationalisation, which is the revolving fund that grants subsidised loans to export companies for commercial penetration programs targeting non-EU Countries (Law 394/1981). According to the Cura Italia Decree, the repayments of the instalments due in 2020, of loans granted by the Fund, are suspended until December 31, 2020. The amortization plan shall be deferred accordingly by a corresponding period.

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⁴ See SA.56690, IP/20/530 of March 25, 2020 available at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_530> last seen on March 27, 2020.

⁵ See SA.56786, IP/20/507 of March 25, 2020, available at <https://ec.europa.eu/commission/presscorner/detail/en/ip_20_507> last seen on March 27, 2020.

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