**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 Milan, 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

DOI: 10.21552/estal/2020/1/21
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 within a €1.5 million threshold per beneficiary.

For reinsurance, the guarantee is up to 90% of the amount guaranteed by Confindustria 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 €500,000,000, 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 European 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-


\(^2\) 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. 3.3.
tutions are not classified as ‘im-
paired’.
In this respect the Cura Italia
Decree provides that:
1. overdraft facilities and loans
   granted over discount of receiv-
   ables outstanding as at March
   17, 2020 cannot be revoked, in
   whole or in part, until Septem-
   ber 30, 2020;
2. loans with bullet repayments
   with maturity before Septem-
   ber 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 with-
   out new or increased charges for
   both parties.

In order to be eligible, the benefi-
ciary shall self-certify (pursuant to
DPR No 445/2000) the temporary
lack of liquidity due to COVID-19.
Upon request of the financing
institutions, 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 Ita-
lian measure to have been autho-
rised 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 Pro-
tection Equipment (PPE) to be pro-
vided 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 Devel-
opment owned by the Italian Min-
istry of Economy). It will take the
form of direct grants or repayable
advances and will be available to
companies of all sizes. The benefi-
ciaries shall supply the aforemen-
tioned products to the Italian au-
thorities at the market prices ap-
plied 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 COV-
ID-19, CDP shall support banking
loans by means of specific instru-
ments including for instance first-
loss guarantees. In this case, CDP
benefits of a State counter-guaran-
tee 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 pene-
tration programs targeting non-
EU Countries (Law 394/1981). Ac-

cording to the Cura Italia Decree,
the repayments of the instal-
ments due in 2020, of loans grant-
ed by the Fund, are suspended un-
til December 31, 2020. The amor-
tization plan shall be deferred ac-
cordingly by a corresponding pe-

* Sara Gobbato, PhD, Of counsel, CRCLEX Milan-Padua, Italy.

---