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Public sector receivables financing: new rules enacted by the Italian Government

Public sector suppliers have often experienced difficulties in the collection of payments due from clients belonging to the Italian public administration. Moreover, the late payment of debts by these public entities is still seen as a major problem in public procurement in the country, since late payment can force firms to increase borrowing in a weak economic environment with limited lending availability from the credit sector.

To this end, the Italian Government recently enacted some measures aimed at creating a more reliable framework for the assignment of public sector receivables, allowing to the public sector suppliers the possibility to arrange a credit facility with banks and financial institutions involved in the receivables financing business.

In particular, on 27 November 2012, the Italian Minister of Economic and Treasury – Department for the National Accounting (hereinafter “MEF”) issued two circulars (35/2012 and 36/2012, hereinafter the “Circulars”) containing operational measures to implement Ministerial Decree 22 May 2012 and Ministerial Decree 25 June 2012 (hereinafter the “Decrees”) defining certification procedures for public sector receivables through a dedicated web platform (<http://certificazionecrediti.mef.gov.it/CertificazioneCredito/home.xhtml>), hereinafter the “Web Platform”).

Circular 27 November 2012, n. 35 enacts Ministerial Decree 22 May 2012 refers to the certification procedures (also through the dedicated Web Platform) of sums owed by public entities of the central administration and of national level public entities concerning receivables owed to private sector providers of services, supply and works. Equivalent provisions

have been passed through Circular 27 November 2012, n. 36 enacting Ministerial Decree 25 June 2012 in connection with sums owed to suppliers by Region, Local Authorities and Entities belonging to the National Healthcare Sector

Through the aforementioned Circulars the Government has provided detailed measures concerning:

- a) the scope of the certification procedure and public finance threshold; a description of the procedure for the release of the certification from the relevant public entity;
- b) operational prescriptions to the regional accounting offices in connection with the appointment of *commissari ad acta* in case of certification delay by the relevant public entity;
- c) arrangements with the banks upon submission of the credit certification statement by the suppliers; payment procedures of the certified receivables;
- d) assessment to be performed in connection with the compliance requirements pursuant to article 48-bis of the Presidential Decree 29 September 1973, n. 602;
- e) information requirements to be fulfilled for the purpose of allowing to the MEF the monitoring; and
- f) information to be supplied by the tax collectors to the MEF in connection with any set-off made with sums owed in connection with the payment of taxes and social security charges.

In connection to the above, on 22 October 2012 the MEF and the Italian Bankers Association entered into a cooperation agreement implementing certain provision of the Decrees concerning the access to the dedicated internet engine. The cooperation agreement set forth that banks and financial institutions must have a direct access to the Web Platform for the purpose of making enquires and monitoring the status of the receivables so that receivables financing transactions could be effected in a more efficient and expeditious way.

Avv. Marco Cerritelli, LLM

Partner

For further information please contact



Avv. Marco Cerritelli, LL.M.

partner
+39 06 80913201
+39 02 778061
marco.cerritelli@cbalex.com

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CBA Studio Legale e Tributario

00196 ROMA

Via Flaminia, 135
Tel. +39 06 80913201
Fax +39 06 8077527

20122 MILANO

Galleria San Carlo, 6
Tel. +39 02 778061
Fax +39 02 76021816

35137 PADOVA

Galleria dei Borromeo, 3
Tel. +39 049 8775811
Fax +39 049 666086

30172 VENEZIA

Via G. Pepe, 2
Tel. +39 041 2384411
Fax +39 041 975305

80539 MÜNCHEN

Ludwigstrasse 10 - D
Tel. +49 (0) 89 99016090
Fax +49 (0) 89 990160999