



# INSURANCE CLIENT ALERT

## INSURERS TO BOOST ACCESS TO FINANCING IN ITALY

On 24 June 2014, Governmental Decree n. 91/2014 (the so-called “Competitiveness Decree”) was published in the Italian Official Gazette. The Decree, which aims to foster the growth of Italian companies through the possibility of making recourse to new sources of financing, introduces a new category of assets for covering the technical reserves of life and non-life business classes of insurance companies, which can now also include the facilities disbursed to entities other than individuals and micro-companies.

The measure shall become effective only once specific rules outlining the conditions and limits for recourse to such type of investment are issued by *IVASS* (the Italian Insurance Supervisory Authority).

The opening of the corporate lending market to the contribution of insurance companies which results from the measure does not imply that the traditional separation between the insurance business and the banking business has been overcome.

In fact, a) the borrowers must in any case be identified by a bank or a financial intermediary duly entered in the register provided for in Article 106 of Legislative Decree n. 385 dated 1 September 1993; b) the bank or the financial intermediary must have a significant economic interest in the transaction up to the moment in which the same is completed; c) the system of internal controls and risk management of the company must be adequate to enable a full “understanding” of the risks, especially

credit risks, connected to such category of assets, though the “understanding” requirement does not mean a true assumption of the credit risk; and d) the company must have an adequate level of capitalization.

It is also clarified that Article 22 of the Competitiveness Decree enables a type of operation which does not constitute, in any case, exercise of the activity of public financing.

The facilities should be disbursed to the companies through the signing of debt securities (such as corporate bonds, either maxi or mini) or credit instruments (listed shares), as demonstrated by the Italian Minister of Economic Development, Ms Guidi.

As the *ANIA* (the Italian Association of Insurance Companies) has pointed out, the condition that the identification of the borrowers rests on banks or financial intermediaries might reduce the interest of insurance companies intending to use their own internal structures for identifying the borrowers. Most importantly, such condition is not contemplated by any of the jurisdictions which admit the entitlement of the insurance companies to disburse the loans directly.

Finally, it is worth mentioning that the public consultation on amendments to Regulation no. 36 closed on July 10, 2014.

The proposed amendments are designed primarily to expand the opportunity for insurance companies to invest and diversify their investments, always with a view to facilitate the financing of the economy.

Among the new provisions the following are the most noteworthy:

- investments in equity securities not traded on regulated markets now embrace securities issued by limited liability companies whose financial statements are subject to certification. The requirement of certification for the last 3 years has been removed. The same provision on the certification of financial statements has been extended to corporate debt securities not traded on regulated markets;
- with reference to alternative investments, the limit of 5% of the technical provisions related to the overall assets belonging to Classes A5.2a) and A5.2b) is removed, while it has been confirmed that the general limit of 10% of the technical provisions is applicable to the whole general class;

- IVASS may allow companies to invest both in assets other than those provided for by Regulation n. 36 and in excess of the quantitative limits laid down by the same Regulation n. 36. Following a company request, supported by the grounds for the request, the authorization is granted for one or more investment, subject to (a) the demonstrated ability to assess and manage the risk, (b) to the consistency between assets and liabilities and (c) to compliance with the solvency requirements even in the medium to long term (i.e. also taking into account the absorption of regulatory capital that these investments will require under the new Solvency II regime).

It may be that in the light of art. 22 of the Competitiveness Decree IVASS drafts new amendments to Regulation n. 36.

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