

APRIL 2016

GACS:

APPROVED THE CONVERSION LAW OF THE RELEVANT DECREE

On 10 February 2016, decree no. 18/2016 (the "**Decree**") was passed which, following the agreement reached with the EU late last month, sets out the details of the Italian government guarantee scheme for senior tranches of securitisation ABS backed by NPLs.

On 7 April 2016, the Italian Parliament approved the conversion law of the Decree (the "**Law**") introducing some amendments to the Decree, as summarized and highlighted below.

Summary

Article 3, paragraph 1.

Such provision now also includes those liabilities issued upon transfer of non-performing loans portfolio from "financial intermediaries enrolled in the register set out under article 106 of the legislative decree 1 September 1993, no. 385".

Article 4, paragraph 1, letter a)

It is specified that the assigned receivables shall be transferred for an amount which shall not be higher than their "net book value as at the transfer date".

Article 6, paragraph 2

It is provided that, subject to certain conditions, the remuneration of the mezzanine Notes may be subordinated to the full repayment of the principal of the senior Note, in addition to the possibility of being deferred or conditioned to performance targets relating to the collection or recovery of receivables in the assigned portfolio.

Article 7, new paragraph 1-bis

Such provision allows to provide that payment of any amount due to services providers and to counterparties of financial hedging agreements may be conditioned to performance targets in the collection or recovery in relation to the assigned portfolio or, subject to certain conditions, be subordinated to the full repayment of the principal of the senior Notes.

Article 11, paragraph 3

With regard to the subrogation of the Ministry of Economy and Finance in the rights of the senior Noteholders, it is specified that the recovery of any amount by the Ministry of Economy and Finance from the SPV shall be subordinated to the payment of any amount due as interest to senior Noteholders.

Article 12

It is provided that the resources assigned to the specific fund established within the Ministry of Economy and Finance in relation to the GACS have been increased from €100 million to €120 million.

Edited by the Italian Finance Team

Patrizio Messina
pmessina@orrick.com

Gianrico Giannesi
ggiannesi@orrick.com

Raul Rizzo
rrizzo@orrick.com

Madeleine Horrocks
mhorrocks@orrick.com

Emanuela Molinaro
emolinaro@orrick.com

Annalisa Dentoni-Litta
adentonilitta@orrick.com

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TEXT OF THE CONVERSION LAW (WITH AMENDMENTS)

CHAPTER II

GUARANTEE ON THE SECURITISATION OF NON-PERFORMING LOANS (GACS)

Art. 3 - Scope

1. In accordance with the criteria and the conditions set forth in this Chapter, for a period of eighteen months from the date of entry into force of this decree, the Minister of Economy and Finance is authorised to grant the State guarantee on liabilities issued in the context of securitisation transactions pursuant to article 1 of Law No. 130 of 30 April 1999, against the transfer from banks and from financial intermediaries enrolled in the register set out under article 106 of the legislative decree 1 September 1993, no. 385, hereinafter denominated "originators" with a registered office in Italy of monetary receivables, including receivables deriving from lease contracts, classified as non-performing.

2. The Minister of Economy and Finance may, with the prior approval of the European Commission, extend the period referred to in paragraph 1 by decree, up to a maximum of a further eighteen months.

3. The Ministry of Economy and Finance, within three months following the positive decision by the European Commission of the state guarantee scheme referred to in paragraph 1, shall appoint, subject to the approval of the latter, a qualified independent party which shall monitor the compliance of the state guarantee with the provisions of this chapter and with the decision of the European Commission ~~referred to in paragraph~~

4. In relation to any related charges, within a maximum limit of Euro 1 million for each of the years 2016 to 2019, provision is made for the special funding resources referred to in article 12 to be relied on.

Art. 4 - Structuring of the securitisation transaction

1. Notwithstanding the provisions of article 2 of Law No. 130 of 30 April 1999, the securitisation transactions referred to in this Chapter shall have the following features:

(a) the assigned receivables shall be transferred to the assignee company for an amount no higher than their net book value as at the transfer date (gross value net of adjustments);

(b) the securitisation transaction provides for the issuance of notes (the "Notes") of at least two different classes, in consideration of the degree of subordination in the absorption of losses;

(c) the most subordinated class of Notes, called "junior", have no right to receive repayment of principal, payment of interest or other form of remuneration until the full repayment of the principal of the Notes of the other classes;

(d) one or more classes of Notes, called "mezzanine", can be issued, which, with regard to the payment of interest, are subordinated to the payment of interest due to the class of Notes called "senior" and ~~shall~~ may be paid in priority to the repayment of principal of the senior Notes;

(e) provision may be made for the entering into financial hedging agreements with market counterparties in order to reduce the risk arising from asymmetries between the interest rates charged on assets and liabilities;

(f) in order to manage the risk of any mismatch between the funds deriving from collections and recoveries made in relation to the portfolio of assigned receivables and the necessary funds to pay the interest on the senior Notes, provision may be made for the execution of a credit facility for an amount sufficient to keep the minimum level of financial flexibility consistent with the creditworthiness of the senior notes.

Art. 5 - Rating

1. For the purposes of issuing the state guarantee, senior Notes must have previously obtained a credit rating, assigned by an External Credit Assessment Institution ("ECAI") accepted by the European Central Bank as at 1 January 2016, of not lower than investment grade. If under applicable law the release of two assessments of creditworthiness is required, the second assessment on the same senior Note can be issued by an ECAI registered pursuant to Regulation (EU) 1060/2009 regulation (EC) no. 1060/2009 of the European Parliament and the Council of 16 September 2009, and must also not be lower than investment grade.

2. The assessment of credit worthiness, in any case not lower than investment grade, may, alternatively, be private and solely addressed to the Ministry of Economy and Finance, to be understood as buyer and sole recipient for the purposes of Article 2 of ~~Regulation (EU) 1060/2009~~ regulation (EC) no. 1060/2009 of the European Parliament and the Council of 16 September 2009. In this case, the rating agency, chosen from those accepted by the European Central Bank as at 1 January 2016, and proposed by the ~~selling bank~~ originator, is approved by the Ministry of Economy and Finance. The fee due to the rating agency shall be paid by ~~the selling bank~~ originator or by the assignee company.

3. The assignee company undertakes not to request any revocation of the rating received from the ECAIs involved until the principal of the senior Notes has been repaid in full.

~~4. The servicer entity appointed for the collection of the non performing assigned receivables (NPLs servicer) must be different from the selling bank originator and must not belong to the same banking group. The decision (if any) of the originator or of the holders of the Notes to change the NPLs servicer revoke such entity shall not cause a downgrading of the rating of the senior Note by the ECAI.~~ The entity appointed for the collection of the non-performing assigned receivables must be different from the originator and must not belong to the same group. The decision of the originator or of the Noteholders to revoke such entity must not cause a downgrading of the rating of the senior Note by the ECAI.

Art. 6 - Characteristics of senior Notes and mezzanine Notes

1. The senior Notes and, if issued, the mezzanine Notes, shall have the following characteristics:

- (a) a floating rate remuneration;
- (b) the repayment of principal before the maturity date is linked to the cash flows deriving from the recoveries and collections arising from the portfolio of assigned receivables, net of all costs arising from the activities of recovery and collection of assigned receivables;

(c) the payment of interest must be made quarterly, semi-annually or annually in arrears and depend on the outstanding nominal value of the note at the beginning of the relevant interest period.

2. Provision may be made for the remuneration of the mezzanine Notes, ~~being deferred~~ being deferred or subordinated to the full repayment of the principal of the senior Notes or dependent on performance targets in the collection or recovery in relation to the portfolio of assigned receivables.

Art. 7 - Order of priority of payments

1. The amounts deriving from recoveries and collections made in relation to the portfolio of assigned receivables, from the executed financial hedging agreements and from the drawdowns of the credit facility, net of the amounts withheld by the ~~NPL servicer~~ entity appointed for the collection of the assigned receivables for its management activity according to the terms agreed with the assignee company, are used, in the payment of the following items, according to the following order of priority:

- 1) taxes (if any);
- 2) amounts due to services providers;
- 3) payment of the amounts due by way of interest and fees in connection with the activation of the credit facility referred to in Article 4, paragraph 1, letter f);
- 4) payment of the amounts due in respect of the granting of state guarantee on the senior Notes;
- 5) payment of the amounts due to counterparties of financial hedging agreements;
- 6) payment of the amounts due by way of interest on the senior Notes;
- 7) replenishment of the credit facility, if drawn;
- 8) payment of the amounts due by way of interest on the mezzanine Notes;
- 9) repayment of the principal of the senior Notes until full repayment of such notes;
- 10) repayment of the principal of the mezzanine Notes until full repayment of such notes;

11) payment of the amounts due as principal and interest or other form of remuneration on the junior Notes.

1-bis. Provision may be made for the payments set out under numbers 2) and 3) of paragraph 1 above, to be dependent on performance targets relating to the collection or recovery of assigned receivables or, subject to the satisfaction of certain conditions, subordinated to the repayment in full of the principal of the senior Notes.

Art. 8 - State guarantee

1. The state guarantee is against remuneration, can be granted exclusively on the senior Notes and becomes effective only when the ~~selling bank~~ originator has transferred for consideration at least 50% plus 1 of the junior Notes and, in any case, an amount of junior Notes and, if issued, mezzanine Notes, which allows the de-recognition of the securitized receivables from the balance sheet of the ~~selling bank~~ originator and, on a consolidated level, of the selling banking group, pursuant to the relevant accounting principles in force in the year in which the transaction occurs.

2. The state guarantee referred to in paragraph 1 is an unconditional, irrevocable and first demand guarantee for the benefit of the holder of the senior Notes. The guarantee covers the contractually scheduled payments, in relation to principal and interest, and is in favour of the holders of the senior Notes for their entire duration.

3. The State, public authorities and companies controlled, directly or indirectly, by public authorities cannot purchase junior or mezzanine Notes issued in the context of securitization transactions in relation to which the State guarantee set out under article 3, paragraph 1, has been requested.

Art. 9 - State guarantee fee

1. For the purposes of determining the state guarantee fee, reference is made to three CDS Baskets defined as the basket of credit default swaps (CDS) relating to individual Italian issuers whose assessment of the creditworthiness, as released by S&P, Fitch Ratings or Moody's, as at the date of entry into force of this decree, is equal to:

(i) BBB/Baa2, BBB-/Baa3 or BB+/Ba1 for the first basket, used if the rating of the senior Notes is BBB-/Baa3/BBB-/BBB L;

(ii) BBB+/Baa1, BBB/Baa2, or BBB-/Baa3 for the second basket, used if the rating of the senior Notes is BBB/Baa2/BBB/BBB;

(iii) BBB/Baa2, BBB+/Baa1 or A-/A3 for the third basket, used if the rating of the senior Notes is BBB+/Baa1/BBB+/BBB H.

2. In the event that the senior Notes have received more than one rating, for the purposes of the identification of the Basket, the lowest rating is taken into account. The composition of the CDS Baskets is indicated in Annex 1 to this decree. If the assessment of the creditworthiness of one of the issuers herein considered is amended so as to no longer fall in the ratings ~~above~~ set out under paragraph 1, the issuer will be excluded from the CDS Basket.

3. The guarantee is granted on payment of an annual fee determined by market conditions based on the following methodology, as detailed in the formula referred to in Annex 2 to this decree:

(a) the value of the price of each CDS included in the CDS Basket of reference is determined, and is defined as the average of the daily prices at mid-market, or, in the absence of this, ~~at~~ as the average of the daily bid and ask prices, relating to the six months preceding the date on which the grant of the guarantee has been requested, calculated using data extrapolated from the Bloomberg platform, using the CMAL source (CMA London);

(b) the simple average of the individual CDS prices included in the CDS Basket of reference is determined, and is calculated as specified in paragraph a) above;

(c) the annual fee of the guarantee is calculated on the outstanding amount of the senior Notes at the beginning of the interest payment period and is paid with the same modality of the interest of the senior Notes, pursuant to art. 6, paragraph 1, letter c), and is equal to:

(i) for the first three years, the simple average of the prices of individual three-year CDS calculated as specified in paragraphs a) and b) above;

(ii) for the next two years, the simple average of the prices of individual five-year CDS calculated as specified in paragraphs a) and b) above;

(iii) for the following years, the simple average of the prices of individual seven-year CDS calculated as specified in paragraphs a) and b) above;

(d) the annual fee of the guarantee must be increased by an additional amount equal to:

(i) 2.70 times the difference between the average referred to in subparagraph c), ii) and the average referred to in subparagraph c, i), for the fourth and fifth year, in the event that the senior Notes are not fully repaid by the end of the third year;

(ii) 8.98 times the difference between the average referred to in subparagraph c), iii) and the average referred to in subparagraph c, ii), for the sixth and seventh year, in the event that the senior Notes are not fully repaid by the end of the fifth year.

4. The Minister of Economy and Finance may, by decree, amend the calculation criteria, the measure of the commissions contained in this article and the source of data referred to in paragraph 3, letter a), in accordance with the decisions of the European Commission. Amendments shall not affect existing transactions.

Art. 10 - Admission to the guarantee

1. The guarantee is issued by decree of the Minister of Economy and Finance upon documented request of the ~~selling bank~~ originator to be filled with the Ministry of Economy and Finance.

Art. 11 - Enforcement of the guarantee

1. The State guarantee may be enforced by the holder within nine months following the maturity of the senior Notes, upon the failure to make any payment, partial or otherwise, of the amounts due as principal or interest in compliance with the mandatory terms set out in this article. In the event that the failure to pay lasts for sixty days from the expiry of the deadline for the fulfilment, the holders of the senior Notes, with the agreement and also through the representative of the noteholders (RON), shall send to the assignee company a

request for the payment of any amount due and unpaid; after thirty days and within six months from the date of receipt of the request letter to the assignee company if payment remains outstanding, the holder of the senior Notes, with the agreement and also through the representative of the noteholders (RON), may request the intervention of the state guarantee.

2. Within thirty days from the receipt of the documented request of the enforcement of the state guarantee, the Ministry of Economy and Finance shall pay the amount to the holders of the senior Note ~~in compliance with the terms and the amount originally set out in the securitisation transaction documents~~ which have not been paid by the originator, without any further interest or costs.

3. By making the relevant payment, the Ministry of Economy and Finance is subrogated to the rights of the holders of the senior Notes and shall, subject to the contractual limitations provided for the exercise of such rights and subordinated to the payment of any amount due as interest to the holders of the senior Notes, recover the amount paid, the interest at the legal rate accrued from the payment date to the redemption date and the costs incurred for the recovery, also by way of the registration procedure in the register, pursuant to the Decree of the President of the Republic No. 602 of 29 September 1973 and the Legislative Decree No. 46 of 26 February 1999, as amended. Such amounts shall be paid to the special account referred to in article ~~40~~ 12.

Art. 12 - Financial funds

1. For the purposes of this Chapter, a specific fund with a budget of Euro ~~400~~ 120 million in respect of the year 2016 has been established within the Ministry of Economics and Finance. This fund is further financed with the annual fees of the granted guarantees which are paid for such purpose on the entry of the State balance sheet for the following reassignment to the Fund. Such amounts are paid on special accounting secured for the payment related to the enforcement (if any) of such guarantees, as well as for the additional costs in connection with the implementation of this Chapter, deriving from article 3, paragraph 3 and article 13, paragraph 1.

2. In relation to the cost referred to in paragraph 1, provision is made for a corresponding reduction of the budget of the fund referred to in article 37, paragraph 6, of Law Decree No. 66 of 24 April 2014, converted with amendments by Law No. 89 of 23 June 2014.

Art. 13 - Implementing provisions

1. The Ministry of Economy and Finance may use, pursuant to article 19, paragraph 5, of Law Decree No. 78 of 1 July 2009, as converted, with amendments, by the law no. 4102 of 3 August 2009, [as converted with amendments, by the law no. 102 of 3 August 2009](#), a wholly public owned company for the management of the intervention.

2. The implementing provisions of this Chapter may be adopted within sixty days from ~~the date of entry into force of the law of conversion of this decree~~ [the date of entry into force of the law of conversion of this decree](#) by a non-regulatory decree of the Minister of Economy and Finance.