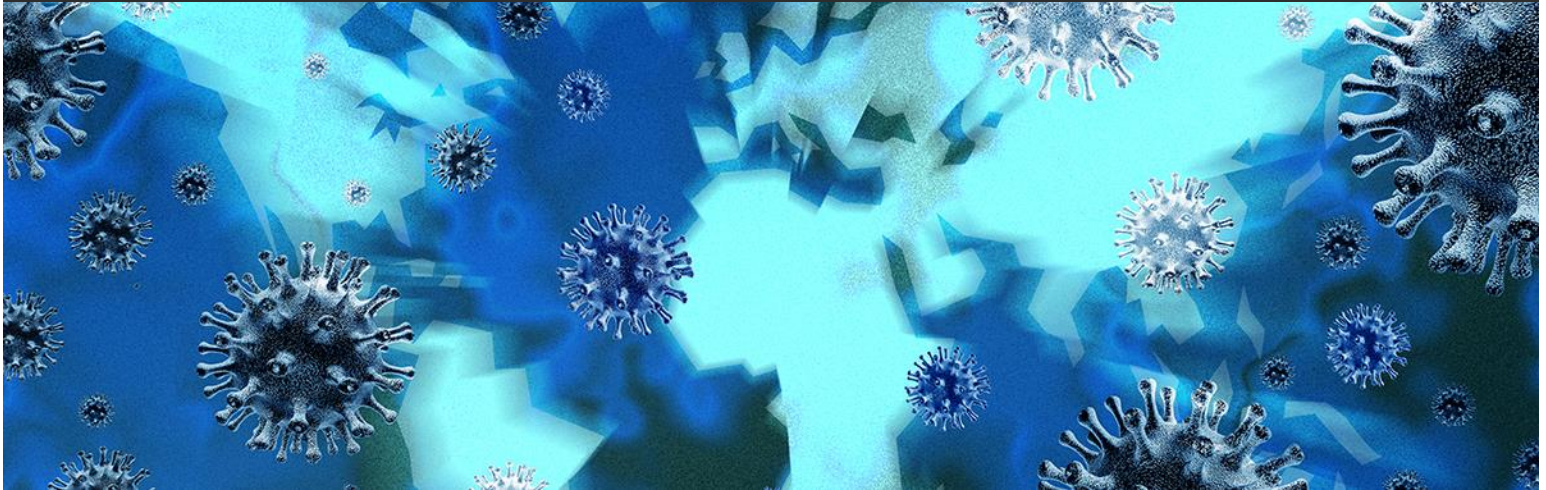


Alert | Health Emergency Preparedness Task Force: Coronavirus Disease 2019 – Focus on Italy



3 April 2020

Italian Law: Emergency Legislation for Coronavirus Disease 2019

RECENT ECONOMIC MEASURES TO SUPPORT FAMILIES AND COMPANIES

The current economic situation due to the epidemiological emergency from virus SARS-COV-2 and related Coronavirus Disease 2019 (COVID-19) led the Italian government to issue Decree-Law no. 18/2020 (*Cura Italia* or Take care of Italy), on 17 March 2020. The decree includes several regulatory and financial measures aimed, *inter alia*, at financially supporting companies, workers, and families who have had to cease, interrupt, or reduce their activities. An overview of the most relevant provisions is below.

1. Employment Measures

The Decree grants employees who have been temporarily suspended from work access to the following unemployment benefits:

- i. Ordinary wage guarantee fund (*cassa integrazione guadagni ordinaria* or *CIGO*)¹**

¹ *Cassa Integrazione Guadagni Ordinaria* - *CIGO* and *Cassa Integrazione Guadagni in Deroga* - *CIGS* are legal institutions already established before the COVID-19 Emergency and governed by Legislative Decree no. 148/2015.

Pursuant to **Article 19** of the Decree, employees of companies active in the industrial and construction field may apply for CIGO subsidy unemployment benefit, Starting 23 February 2020, and for a maximum of nine weeks, the Italian National Institute for Social Security will give employees an amount equal to 80% of their total wages for unworked hours, within the gross monthly maximum limit of EUR 998.18 for wages equal to or less than EUR 2,159.48 and EUR 1,199.72 for wages exceeding EUR 2,159.48 per month. In order to have access to the CIGO, **(i) it is not necessary to carry out the trade union consultation procedure²; (ii) it is sufficient to indicate COVID-19 as the reason in the application; (iii) it is not necessary to pay the additional contribution.**

Furthermore, **Article 46** of the Decree **(i)** prohibits initiation of procedures relating to collective dismissal (*licenziamento collettivo*) for 60 days running from 17 March 2020; **(ii)** suspends for the same period all pending proceedings of collective dismissal after 23 Feb. 2020; and **(iii)** forbids companies and employers from terminating individual employment contracts for organizational reasons (*s. c. giustificato motivo oggettivo*), for 60 days after 17 March 2020.

2. Measures to support liquidity of companies through the banking system

Title 3 of the decree contains the following provisions aimed at simplifying company access to bank credit; many of these measures are expressly aimed at small- and medium-sized enterprises (SMEs) with less than 250 employees, whose annual turnover does not exceed EUR 50 million or whose total annual balance sheet does not exceed EUR 43 million.

i. Central guarantee fund for SMEs

Article 49 of the Decree, by way of derogation from Law no. 662/1996 establishing the guarantee fund for SMEs (**Guarantee Fund**), provides that SMEs and professionals may be granted with the public guarantee of the Guarantee Fund on terms more favorable for a nine-month period. In particular, according to the Decree: **(i)** the granting of the guarantee is **free of charge**; **(ii)** the maximum guaranteed amount is **raised from EUR 2.5 to 5 million per enterprise**; **(iii)** as to direct guarantees, the maximum amount is 80% of the amount of each financing, up to a maximum guaranteed amount of EUR 1.5 million per enterprise; **(iv)** access to the Guarantee Fund **is also eligible for renegotiation of outstanding loans and other debts** (i.e. *accordi di ristrutturazione del debito*); and **(iv)** the Guarantee Fund may be granted, in addition to other security interests, assisting the financing of real estate financing transactions in the tourism and hotel sectors for total commitments exceeding EUR 500,000 and a final maturity date no longer than 10 years.

ii. Financial support measures for companies

Non-performing loans (NPLs) are those loans for which the maturity date is expired by more than 90 days. In order to encourage the assignment of NPLs, **article 55** of the Decree provides that companies assigning NPLs to third-party purchasers may, from the effective date of the assignment of the NPLs, transform into tax credit deferred tax assets (*attività per imposte anticipate*) accrued in connection with **(i)** tax losses not yet computed as a reduction in taxable

² Starting the trade union consultation procedure (*procedura di consultazione sindacale*) is provided for by Article 14 of Legislative Decree no. 148/2015 as a prerequisite for applying for a CIGO benefit .

income and **(ii)** surplus economic growth aid (*ACE*)³, for an aggregate amount not exceeding 20% of the nominal value of the NPLs assigned and, in aggregate, up to EUR 2 billion.

iii. Financial support measures for SMEs

Pursuant to **Article 56** of the Decree, SMEs may activate the following extraordinary moratorium and rescheduling tools: **(i)** suspension until 30 September 2020 for the repayment of credit lines (*apertura di credito a revoca*) existing as of 29 February 2020; **(ii)** suspension until 30 September 2020 for bullet loans having contractual maturity date before that date; **(iii)** suspension until 30 September 2020 for loans and other funding repayable in installments, including the payment of financial lease installments having contractual maturity date before 30 September 2020. Moratoriums may be activated by sending the lender a notice and self-certification stating the suffering of temporary liquidity shortages as a consequence of the COVID-19 emergency.

iv. Cassa Depositi e Prestiti and Italian State credit enhancement to support the liquidity of companies

Article 57 of the Decree states that banks and other financial institutions granting loans to eligible companies that have suffered a reduction in turnover due to the COVID-19 emergency may benefit from financing schemes backed up by Cassa Depositi e Prestiti for an amount up to 80% of the relevant total commitments. In turn, Cassa Depositi e Prestiti's exposures may benefit from a guarantee granted by the State for an amount up to 80% of CDP's commitment. The effectiveness of the provision is subject to publication of a Ministerial Decree (not published to date) specifying the relevant borrowers' industry sector and other eligibility criteria for the application of the aforesaid public credit enhancement financing scheme.

3. Tax measures to support liquidity of families and businesses

The Decree states companies may benefit from the following economic incentives: **(i)** suspension until 30 June 2020 of tax obligations expiring between 8 March 2020 and 31 May 2020⁴; **(ii)** tax credit for the costs of sanitation in the workplace⁵; **(iii)** suspension of payments until 31 May 2020, withholding taxes, and VAT contributions expiring between 8 March 2020 and 31 March 2020⁶; and **(iv)** suspension of the payment deadlines of amounts due to the collection agent (*agente della riscossione*) until 30 June 2020 with respect to tax and non-tax revenues collected by means of a payment notice (*cartelle di pagamento*) issued by social security institutions⁷.

4. Other relevant measures

Title V, Chapter I of the Decree, entitled "*Further provisions to deal with the emergency arising from the spreading of COVID-19*" contains further provisions, the most relevant of which are the following:

i. Suspension of court hearings and deadlines in civil proceedings

³ ACE (aid for economic growth) is a facility introduced with Law Decree no. 201/2011 to encourage the strengthening of the capital structure of companies and the Italian production system. The facility was abolished with Law no. 145/2018 and reintroduced with the 2020 Budget Law (article 1, paragraph 287, Law no. 160/2019) in 2019.

⁴ Article 62, paragraphs 1 and 6 of the Decree.

⁵ Article 64 of the Decree.

⁶ Article 62, paragraphs 2, 3 and 5 of the Decree.

⁷ Article 68 of the Decree.

Article 83, paragraphs 1 of the Decree, by replacing and amending a similar provision set out in Law-Decree no. 11/2020, has suspended all civil and tax court hearings for a “buffer” period spanning from 9 March to 15 April. During that buffer period, no hearing will be kept except for a specified number of matters – mainly related to family and immigration law and to enforcement of judgments pending appeals – and, more generally, for any dispute that, upon a party’s motion, is recognized to be characterized as urgent and not suitable for postponement⁸.

Furthermore, all procedural deadlines in civil proceedings, including tax disputes, are suspended for the said buffer period. Deadlines expiring within that period will start or restart on 16 April⁹. This rule does not apply for matters and disputes excluded from the suspension of hearings under Article 83, paragraph 3. The suspension includes hearings and deadlines in all enforcement proceedings (*e.g.* foreclosures) and in all proceedings for provisional or conservative measures, unless they are specifically declared urgent and not suitable for postponement according to Article 83, paragraph 3 above. **Article 103, paragraph 6** of the Decree specifies that all repossession proceedings of real estates – whether residential or nonresidential – are suspended until 30 June 2020.

Article 84 of the Decree sets out provisions similar to those of Article 83 for the proceedings before administrative tribunals.

ii. Relevance of compliance with containment measures as a defense in civil liability disputes

Article 91 of the Decree has amended Article 3 of Law-Decree no. 6/2020 (the first governmental act confronting the spreading of COVID-19) and has introduced a provision stating that compliance with virus containment measures issued by authorities in accordance with the Decree shall be taken into consideration for the purpose of assessing the debtor’s liability under Articles 1218 and 1223 of the Civil Code, and also for the purpose of applying deadlines or liquidated damages for noncompliance or delay in compliance with any obligations.

iii. Suspension of deadlines in administrative proceedings

According to **Article 103, paragraph 1** of the Decree **(i)** the administrative proceedings initiated upon application of a party and **(ii)** the deadlines for the formation of the s. c. tacit consent (*silenzio assenso*) pending as of 23 February 2020 are suspended until 15 April 2020.

iv. Validity of certificates and licenses

According to **Article 103, paragraph 2** of the Decree, the validity of certificates, attestations, permits, concessions, and authorizations expiring between 23 February 2020 and 15 April 2020 is extended until 15 June 2020.

5. Rules on the management of company shareholders’ meeting

The Decree provides for the possibility **(i)** in derogation to Articles 2364 and 2478-*bis* of the Italian Civil Code, to extend the ordinary deadline of 120 days from the end of the financial year (in maximum 180 days)

⁸ Article 83, paragraph 3 of the Decree.

⁹ Article 83, paragraph 2 of the Decree.

for the approval of the financial statements even in the absence of a specific provision of the by-laws¹⁰; **(ii)** to hold the shareholders' meetings through postal voting, electronic voting, telecommunications, or designated representative, even in the absence of a specific provision of the bylaws¹¹; **(iii)** for shareholders of listed companies – by way of derogation from Article 135-*undecies* of the Consolidated Financial Act¹² - to use the s. c. designated representative (*rappresentante designato*) even if the bylaws provide otherwise¹³. Such provisions apply to any meeting to be summoned until 30 July 2020 or the subsequent date to which the state of sanitary emergency currently in force might be eventually postponed by the government.

See our previous alert, “[Italian Corporate Law: Emergency Legislation for Coronavirus Disease 2019](#),” for an overview of the Italian corporate law sector with respect to COVID-19.

* *This GT Alert is limited to non-U.S. matters and law.*

For more information and updates on the developing COVID-19 situation, visit [GT's Health Emergency Preparedness Task Force: Coronavirus Disease 2019](#).

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¹⁰ Article 106, paragraph 1 of the Decree.

¹¹ Article 106, paragraphs 2, 3, 4, 5 and 6 of the Decree.

¹² Legislative Decree no. 58/1998 (“*Testo Unico Finanziario* – “TUF”)

¹³ Article 106, paragraphs 2 and 4 of the Decree.