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**COVID-19 Emergency
ALERT
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No. 221**

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Executive Summary

Alert No. 221: The economic support measures related to the health emergency caused by COVID-19: The Liquidity Decree converted into Law.

Introduction.

In order to address the lack of liquidity from which the entire productive fabric of the country is suffering as a result of the economic crisis resulting from the COVID-19 epidemiological emergency, this Alert examines [Law No. 40/2020](#) (published in the [Italian Official Gazette](#) with No. 143 of 6th June 2020) converted into law the Law Decree No. 23 of 8th April 2020 (the so-called "**Liquidity Decree**"), which was also analyzed in our [Alert No. 79](#).

Some of the amendments/points adopted during the parliamentary procedure, include : **(i)** the "mini" loans being 100% covered by the Italian SME Guarantee Fund; **(ii)** the self-declaration to accelerate the disbursement of the State guaranteed loans; **(iii)** the extension of the deadline for carrying out the revaluation of business assets and participations resulting from the financial statements for the current financial year, as at 31st December 2018; **(iv)** the tax credit for the cancellation of trade fairs and commercial events abroad; and **(v)** the free revaluation for the tourism sector.

In essence, the final text contains articulated provisions aimed at different policy areas, including:

- A.** *Measures on access to credit;*
- B.** *Fiscal measures;*
- C.** *Measures to support businesses in crisis;*
- D.** *Employment measures;*
- E.** *Measures to extend the government's Golden Power.*

A. Measures on access to credit

The overall structure of the system of public guarantees is confirmed, defined by Articles 1 and 13, aimed at facilitating the granting of loans to businesses and operators in the arts and professions by banks and other intermediaries authorized to exercise credit. In particular, there are "temporary" guarantees, valid until 31st December 2020, granted by the Central Guarantee Fund for SMEs and by SACE.

The Warranty SACE

The SACE extraordinary guarantees provided for in Article 1 apply to bank loans in any form granted by banks, national and international financial institutions and other entities authorized to exercise credit in Italy, to companies of any size based in Italy, affected by the COVID-19

epidemic. Excluding companies which, directly or indirectly, control or are controlled by a company resident in a non-cooperative country or territory for tax purposes.

Guaranteed financing: **(i)** may not exceed 6 years, with a maximum pre-amortisation period of 36 months and the related amount may not exceed the greater of 25% of the company's annual turnover in 2019 and double the company's personnel costs in 2019; **(ii)** will be used to support personnel costs, rent or lease of company branches, investments or working capital employed in production plants and business activities located in Italy, as documented and certified by the legal representative of the beneficiary company¹.

In addition, SACE guarantees may be granted: **(a)** in favor of banks, national and international financial institutions and other entities subscribing in Italy to bonds or other debt securities issued by companies to which a certain rating is attributed; **(b)** for the assignments of receivables with solvency guarantee provided by the assignor, made in favor of banks and intermediaries.

SME Guarantee Fund

This Law (Art. 13 of the Law) introduces a transitional (and extraordinary) regulation, according to which, among others, and until 31.12.2020: **(i)** the guarantee of the Fund is granted free of charge, up to a maximum guaranteed amount of 5 million and to companies with a number of employees not exceeding 499 people; **(ii)** the coverage percentage of the direct guarantee is increased to 90% of the amount of each loan with a duration of up to 72 months; **(iii)** the coverage of the Reinsurance Fund is increased to 100% of the amount guaranteed by the Confidi or other guarantee fund. In the case of a public guarantee at 80% (with the possibility of covering the remaining 20% with the Confidi), the loans may be returned over 10 years and up to 30 years; **(iv)** it is possible to combine the Fund's guarantee with an additional guarantee up to 100% coverage of the loan granted to the beneficiaries with an amount of revenue not exceeding € 3.2 million; **(v)** debt rescheduling operations are eligible for intervention as guarantees provided that the new loan provides additional credit equivalent to at least 10% of the outstanding debt or at least 25% of the outstanding amount of the loan subject to rescheduling.

In addition, the credit line for micro loans has been amended by increasing the maximum amount of guaranteed loans from EUR 25,000 to EUR 30,000 and extending their duration from 6 to 10 years, together with an increase in the number of beneficiaries.

Self-certification

With a view to streamlining the relevant access procedures for SACE guarantees and the SME Guarantee Fund, a special self-certification is introduced. In this sense, companies applying for guaranteed financing will have to submit a self-certification on company data, tax loyalty and compliance with anti-mafia regulations. Upon receipt of the self-certification, banks will have to comply only with the obligations imposed by the anti-money laundering legislation without being required to carry out further checks on the truthfulness of the other declared information.

¹ The financing may also be used, for no more than 20% of the amount disbursed, for the payment of instalments of loans, due or coming due during the emergency period whose repayment is objectively impossible due to the COVID-19 epidemic. In addition, the company benefiting from the guarantee will have to make specific commitments, including that of managing employment levels through union agreements and that of not approving the distribution of dividends or the repurchase of shares during 2020, or, if the distribution of dividends or the repurchase of shares at the time of the loan application has already taken place, the commitment not to distribute dividends is made for the 12 months following the application. In addition, the beneficiary companies must agree not to relocate their production facilities.

Gasparrini Fund

Further innovations concern the Solidarity Fund for first home loans (the so-called “Gasparrini Fund”), with the introduction of a new procedure for the suspension of the loan instalment. Until 31st December 2020, in fact, banks can immediately suspend the instalments after the completeness and formal regularity of the application has been verified, without waiting for the outcome of the examination by the Fund manager.

B. Fiscal measures

Among the main measures added at the time of conversion, in the tax area, are to be noted, among others: **(i)** Article 12-*bis*, which establishes a tax credit equal to 30% of the expenses incurred by companies for participation in international fairs or events that have been cancelled due to the epidemiological emergency; **(ii)** Article 2-*ter*, which extends the deadline for the revaluation of company assets and shareholdings that appear in the financial statements for the current year as at 31st December 2018.

The above is in addition to those already provided for: **(a)** the suspension of self-liquidation payments due in April 2020 and May 2020, concerning withholding taxes on income from employment and similar activities, value added tax and social security contributions, as well as compulsory insurance premiums²; **(b)** simplifications for the payment of stamp duty on electronic invoices; **(c)** the possibility of calculating and paying the advance payments due using the forecast method without the application of penalties or interest in the event of a deviation of the amount paid as an advance payment from that due on the basis of the results of the tax return and the Italian Regional Tax on Productive Activities, within the margin of 20%.

C. Measures to support businesses in crisis

With a view to safeguarding the business continuity of companies, the conversion law contains a number of measures relating to the business as an ongoing concern: **(i)** extension until 1st September 2020 of the entry into force of the Code of Business Crisis and Insolvency; **(ii)** suspension, until 31st December 2020, of the obligations laid down in the Civil Code for limited liability companies with regard to loss of share capital and the non-operational nature of the causes of dissolution of limited liability companies due to reduction of share capital below the legal minimum and of cooperatives due to loss of capital; **(iii)** the possibility of valuing 2019 and 2020 financial statement items on an ongoing concern basis, when this situation existed before the crisis occurred; **(iv)** suspension of the rule of subordination of shareholders’ loans and *intra-group* loans made by 31st December 2020.

In addition, the deadlines for the fulfilment of prior agreements, restructuring agreements, crisis settlement agreements and approved consumer plans expiring after 23rd February 2020 are extended by 6 months³.

D. Employment measures

With regard to work, in accordance with Article 29-*bis*, the employer’s liability in the event of an employee being infected with COVID-19 is excluded, if the workplace is in compliance with safety protocols.

² Provided that the company has suffered a reduction in turnover compared to March and April in the previous tax period.

³ With this in mind, the proceedings for the opening of bankruptcy and insolvency proceedings filed in the period from 9th March to 30th June 2020 are also suspended.

E. Measures to extend the government's Golden Power

Finally, the conversion law strengthens the *Golden Power* legislation: **(i)** by extending the scope of notification obligations and special powers in the energy, transport, communications, etc. sectors. (See Article 15); **(ii)** providing for the possibility for the Government to open the procedure ex officio, if the companies do not comply with the notification obligations, etc.

Finally, for further information, we recommend reading the attached documentation⁴.

The complete collection of our Alert is available in the [AREA RISERVATA](#) at www.assarmatori.eu

⁴ See also, for the sake of completeness, the explanatory article published in the IPSOA online newspaper, available at the following link: <https://www.assarmatori.eu/wp-content/uploads/2020/06/IPSOA.pdf>

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