MENO DEBITO, PIÙ MERCATO

L'iper attivismo dei grandi fondi internazionali nella finanza italiana. Dalle partecipazioni di **BlackRock** all'acquisizione di Italo da parte di **Gip**, passando per Tim e le altre partite aperte da **Elliott**

di Stefano Roncoroni e Pietro Massimo Marangio

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ENGLISH TRANSLATION

LESS DEBT, MORE MARKET

The hyperactivism of large, international hedge funds in the Italian financial sector. From ***Blackrock****'s holdings to the acquisition of Italo by* ***Gip****, as well as Tim and the other operations involving* ***Elliott***

by Stefano Roncoroni and

Pietro Massimo Marangio

Traditionally, the Italian financial sector has been bank-oriented, with little room left for activist investors. Our country has been characterized by a low degree of protection of minority shareholders, while majority shareholders have been able to extract considerable benefits, thanks to the corporate control. Nevertheless, something important is happening. Italian relational capitalism is gradually giving way to new players, in part because large international hedge funds are operating in the Italian market with increasing confidence and increasing financial resources. This phenomenon does not regard only Italy – at least that's what S&P Market Intelligence data indicates – and seems to be unprecedented, since the investment initiatives that have been announced and already carried out by foreign activist funds total 147 since the beginning of 2018. According to Lazard's estimates, in 2017 alone such hedge funds invested about 22 billion US dollars in Europe (more than double the sum invested in the preceding 3-year period).

The most recent financial news concerning operations in Italy indicates the main transactions involving hedge funds, such as the sale of Italo (Ntv) from its Italian shareholders to the US fund Global Infrastructure Partners for more than 2 billion Euro (1.980 billion, to be exact, plus the assumption of 440 million Euros debt). Then there is the activism of Elliott, which directly or indirectly holds 25.66% of Ansaldo STS, and has challenged the controlling shareholder Hitachi (in all the competent venues, including the civil courts, as well as at the shareholders' meeting of last 10 May; Ansaldo's 2017 financial statements were ultimately approved, but the distribution of dividends proposed by its Board of Directors was not). Elliott also undertook the campaign against Vivendi in Telecom Italia, resulting in the appointment of directors indicated in the voting slate submitted by the US hedge fund. And the fund provided 303 million Euros in financing to Mr. Yonghong Li for the acquisition of the AC Milan football club (obtaining a pledge on the team's shares as security). As this article is going to print, the hedge fund has granted an additional loan, amounting to 32 million Euros, which Mr. Li must reimburse within ten days. Otherwise, Elliott will enforce the pledge. The latest news also reports a 3 billion Euro offer that CVC announced for a controlling stake in the pharmaceutical company Recordati. Without mentioning the Italian banks' abundant supply of NPLs that are attracting the attention of specialized hedge funds, like the US fund Cerberus (although probably with less enthusiasm and longer terms than expected). It can be useful to analyze this data in relation to the stakes held by hedge funds in the corporate capital of Italian listed companies. The Consob website shows us that apart from Elliott (which is the most active fund in terms of investments in Italian companies), Blackrock holds stakes in heavy industries such as Atlantia (5.12% of its corporate capital), EI Towers (9.06%) and Raiway (5%), but also in the capital of banks (it owns 7.57% of Finecobank). Amber Capital (with 5.19% of Ascopiave and 10.46% of Caltagirone Editore) and FMR – Fidelity Management and Research (that owns 9.99% of Brunello Cucinelli, 5% of Emak and 7.8% of Interpump Group) have diversified investments in Italy, too.

In the fashion, apparel and accessories industry, we see investments by Eurazeo (that owns 4.77% of Moncler), BdI Capital Management (6.35% of Safilo Group), Attestor Capital (which, through Trinity Investment Designated Company, holds 71% of Stefanel) and Oppenheimer Funds (holding 3.69% of Tod's). Invesco (with 5.13% of Banca BPM and 3.12% of Mediobanca) is invested in the financial sector. Likewise, the cited Attestor Capital acquired 68.8% of Banca Intermobiliare from Veneto Banca (that acquisition will be followed by a mandatory bid for the bank and its delisting). Hosching Partners owns 5.05% of Credito Valtellinese; Silchester International Investors owns 5.12% of Ubi; T. Rowe Price Associates (3.62% of Banca Mediolanum, in addition to 3% of Prysmian) and Mubadala from the UAE (with 5% of Unicredit) are also invested in Italian banks.

Finally, Warren Buffet's Berkshire Hathway holds a 9% stake in Cattolica Assicurazioni (remaining in the ambit of its core business of financial-insurance activity).

In closely analyzing this phenomenon, one could develop some hypotheses on the critical (or at least current) factors driving it – which can be observed over the last two decades, at a minimum. We see economic factors, starting with the globalization of markets: the Italian entrepreneurial fabric is full of companies generating most of their revenues outside of Italy, leading to a huge trade surplus, while also maintaining factories abroad. Many of these companies are true ambassadors of Made-in-Italy products around the world. As a consequence, they are less responsive to Italian political and financial issues and tensions.

There are also important regulatory factors, aimed at gradually enhancing the minority stakes in listed companies. First, eight years ago the shareholders' rights directive was implemented in our legal system: it aimed to promote more active shareholder participation in company management, and, in particular, the exercise of voting rights – including on a cross-border basis. At the same time, we observe less frequent use of pyramidal structures (in order to maintain corporate control), as well as the introduction of regulations on transactions with related parties.

Additional regulatory factors regard the authority of shareholders' meetings in relation to the adoption of defensive measures against takeover bids and stock-option plans, as well as the need for super majorities in order to adopt amendments to corporate charters.

Another important legal factor is the introduction of voting slates for the appointment of boards of directors and boards of auditors, and the legal proviso requiring at least one of the members to be appointed by the minority slate which has obtained the largest number of votes but is not linked to the shareholders who filed, or voted for, the slate of candidates that was elected.

The factors presented above regard general corporate law; there are also some specific factors related to banking law, for instance, such as the Italian reform of cooperative banks ("*banche popolari*"), introducing the transformation of larger *banche popolari* into joint-stock companies, necessarily triggering the reinforcement of their shareholder base.

In this framework, the motto "*less debt, more market*" is not only the slogan with which the oversight authorities exercise their moral suasion (over financial intermediaries and listed companies), but an increasingly important trend. Therefore, the harmonization of EU corporate law, on the one hand, and the increasing activism of foreign hedge funds in the share capital of Italian listed companies, on the other, are more than welcome; because they bring dynamism to both the corporate governance of Italian companies, and our domestic financial market as a whole.