GITTI AND PARTNERS

CLIENT ALERT 3/2020

THE 2020 MORATORIUM ANNOUNCED BY THE ITALIAN BANKING ASSOCIATION

ADDENDUM TO THE 2019 AGREEMENT FOR CREDIT

Following the outbreak of the COVID-19 epidemic, on March 6, 2020, the Italian Banking Association (IBA) together with the most representative enterprises' associations have executed an *addendum* to the 2019 Agreement for Credit (the "**Agreement**") with the aim of extending the measures called "Companies in Recovery 2.0" also to loans existing as at January 31, 2020.

Here follows a short summary of such measures, including the relating requirements and access modalities.

The measures "Companies in Recovery 2.0" allow the SMEs that operate in Italy, in any industry, to stay the payment of the principal of a financing and to extend the duration of the loans existing as at January 31, 2020. **It is worth noting, however, that there is no obligation on the banks and financial institutions, notwithstanding their original participation to the Agreement, to grant such measures. Each credit institution is free to assess the situation of each borrower discretionarily** (art. 2.1.8 of the Agreement).

1. MEASURES FALLING WITHIN THE FRAMEWORK OF "COMPANIES IN RECOVERY 2.0"

The Agreement provides that banks and financial institutions may be requested to:

A. stay, for a maximum of 12 months, the principal amount of a loan, while the borrower will continue to pay the relating quota of interests;

B. extend the duration of a loan.

1.1 The stay

The possibility to apply for a stay is granted to medium- and long-term mortgages (even entered into with the issuance of agricultural promissory notes), leasing contracts, both on movable goods and real estate, mortgages and leasing assisted by a public contribution, provided however that the public entity who granted the financial assistance has resolved the possibility to benefit from this measure, with notice given to the Ministry of Economy and under the condition that, after the stay, the original plan for the granting of public contributions is not amended.

During the period of stay, the borrower will pay interests-only installments at the contractually agreed rate: the bank may ask for an increase of the interest rate (exclusively connected with the increase of costs related to the completion of the transaction) which however cannot exceed 60bps. The borrower who applies for this measure cannot be charged with additional costs (other than those borne by the bank vis-à-vis third parties to complete the stay).

The stay triggers the extension of the amortizing plan for a period equal to the stay itself, while the interests-only installments are paid at the original due dates.

Within the framework of the aforementioned discretion granted to banks and financial institutions, they are allowed to ask for additional guarantees to the applying enterprises with the aim of limiting the increase of the interest rate.

1.2 The extension

The extension may be granted to mortgages, short-term loans and agricultural credit, with our without promissory notes. The maximum extension period is equal to 100% of the remaining duration of the amortizing period. For the short-term credit, the limit is set in 270 days.

The extensions of the short-term due dates may also be granted in connection with payments overdue that the enterprise has registered on bank advances on receivables.

Similarly to the stay, banks and financial institutions may ask for additional guarantees or they may increase the agreed upon interest rate, insofar as this is in line with the increased costs of the banks and connected with the transactions. It is clarified, however, that the new amortizing installments shall result to be considerably low than the original installments.

2. APPLICATION REQUIREMENTS.

The Agreement imposes limitations as to the subjects who can apply and to the scope of such extraordinary measures.

As to the subject who can apply for these measures, the Agreement makes reference to the micro, small and medium-sized enterprises as defined by the Commission Recommendation of May 6, 2003 and by the Decree of the Ministry of Productive Activities dated April 18, 2005, such as those enterprises that have both (i) a number of employees and (ii) a turnover or a total assets value lower than the thresholds indicated in the following table:

CATEGORY	EMPLOYEES	NET TURNOVER	TOTAL ASSETS
MEDIUM-SIZED ENTERPRISE	Less than 250	€ 50 m.	€ 43 m.
SMALL-SIZED ENTERPRISE	Less than 50	€ 10 m.	€ 10 m.
MICRO-SIZED ENTERPRISE	Less than 10	€ 2 m.	€ 2 m.

As to the scope of the measures, it is required that the loans (i) were already ongoing as at January 31, 2020 (art. 4 of the addendum), (ii) have not be interested by any previous moratoria request (including stay and extension) for the 24 months before the application (art. 2.1.5 of the Agreement), and (iii) have not been classified as non-performing loans (art. 2.1.3 of the Agreement), although the installments may be entirely or partially overdue for no more than 90 days at the date of application (art. 2.1.4 of the Agreement).

3. ACCESS MODALITIES.

The access procedure is quite easy. The application is drafted on a form provided by IBA that shall be filed directly with the interested bank or financial institution.

The applications may be filed until December 31, 2020 (always for loans already existing as at January 31, 2020).

Banks and financial institutions may request to the applying enterprise to provide elements and data on development expectations and continuation of company's activities (*e.g.*, provisional balance sheets, orders, business plans, prospective cash flows, etc.) to support the application.

In assessing the request, banks and financial institutions apply the principle of sound and prudent management, in compliance with their respective procedures and discretion in taking decisions; a response should be given to the applicant within 30 days from the filing.

Obviously, each bank may always offer to its clients better conditions than those provided by the Agreement.

4. CREDIT BUREAUS

The participation to the aforementioned "Companies in Recovery 2.0" measures is notified to the Credit Bureaus ("*Centrale Rischi Interbancaria*"). It shall therefore be assess beforehand the possible impact of the application to current or future new loans requests or renewal of overdrafts or other facilities.

DISCLAIMER

This Newsletter contains general information about the subject matter described above. The information is not a legal advice and should not be treated as such.

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