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ITALY REGULATORY UPDATE 3/2013

Giovanni Carotenuto

Partner

Orrick, Herrington & Sutcliffe

Piazza della Croce Rossa, 2, Rome (Italy)

+39 0645213900

gcarotenuto@orrick.com

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List of abbreviations

“ AML Law ”: Legislative Decree 21 st November 2007, no. 231, as amended (the Italian anti-money laundering law)
“ CONSOB ”: <i>Commissione Nazionale per le Società e la Borsa</i> (the Italian financial markets authority)
“ Consolidated Banking Act ”: Legislative Decree 1 st September 1993, no. 385, as amended
“ Consolidated Financial Act ”: Legislative Decree 24 th February 1998, no. 58, as amended
“ COVIP ”: <i>Commissione di Vigilanza sui Fondi Pensione</i> (the Italian pension funds authority)
“ EBA ”: European Banking Authority
“ ESMA ”: European Securities and Markets Authority
“ IVASS ”: <i>Istituto di Vigilanza sulle Assicurazioni</i> (the Italian insurance market authority)
“ OG ”: Official Gazette of the Italian Republic
“ OJ ”: European Official Journal
“ UIF ”: <i>Unità di informazione finanziaria</i> (the Italian anti-money laundering authority)

ITALY REGULATORY UPDATE NO. 3/2013 – NOVEMBER 2013

1. ITALIAN LAW

1.1 Primary legislation

SUBJECT-MATTER	RELEVANT LAW PROVISION(S)	SUMMARY	ENTRY INTO FORCE	IMPLEMENTATION DETAILS
Implementation into national legislation of EC/EU directives	Law 6 th August 2013, no. 96 (“ European Delegation Law ”) Law 6 th August 2013, no. 97 (the “ European law ”)	<p>The European Delegation Law entrusts the Italian Government with the authority to transpose into national legislation, by means of an <i>ad hoc</i> legislative decree, EC/EU directives listed in Annexes A and B to the law itself, among which Directive 2011/61/EU of 8th June 2011 (“<i>Alternative Investment Fund Managers Directive</i>”; “AIFMD”).</p> <p>The European Law aims at ensuring the alignment of national legislation with EC/EU one (e.g. by repealing or amending the provisions of national laws not in line with the corresponding measures of EC/EU law).</p>	<u>4th September 2013</u> (OG 20 th August 2013, no. 194)	The Government must adopt the implementing decrees: <ul style="list-style-type: none"> – <u>within two months</u> preceding the relevant transposition deadline; <u>or</u> – <u>within three months</u> from the entry into force of the European Delegation Law, in case of directives whose transposition deadline had already expired or is going to expire in the following three months; – <u>within twelve months</u> from the entry into force of the European Delegation Law, in case of directives that do not envisage any transposition deadline.
Amendments to the definition of “innovative start-up”	Law Decree 28 th June 2013, no. 76 (“ <i>Urgent provisions on employment and the Value Added Tax</i> ”) (“ Law Decree 76/2013 ”), converted	Section 9 of Law Decree 76/2013, as amended by Law 99/2013, introduced some changes to the definition of “innovative start-up” enshrined in Section 25 of Law Decree 18 th October 2012, no. 179. In particular: <ul style="list-style-type: none"> – the provision according to which shareholders of an innovative start up need to be natural persons, as well as to hold the majority of the stock capital for at least 	<u>23rd August 2013</u> (OG 22 nd August 2013, no. 196)	N.A.

	into Law 9 th August 2013, no. 99 (“ Law 99/2013 ”).	<p>24 months has been deleted;</p> <ul style="list-style-type: none"> – the percentage of expenses to be assigned to research and development has been reduced from 20% to 15%; – it has been introduced the possibility that two third of the company’s employees holds a long-cycle degree (“<i>laurea magistrale</i>”); and – it has been introduced the possibility for the company to own rights related to a primary computer program. 		
Miscellaneous provisions for revamping the Italian economy	Law 9 th August 2013, no. 98 (“ Law 98/2013 ”), converting Law Decree 21 st June 2013, no. 69 (the so-called “ Decreto Fare ”; see Italy Regulatory Update 2/2013 for details)	<p>The <i>Decreto Fare</i> was converted into Law 98/2013. Among the main changes:</p> <ul style="list-style-type: none"> – the introduction (based on decision no. 13905 of the Joint Chambers of the Supreme Court of Cassation of 3rd June 2013) in Section 30, paragraph 6, of the Consolidated Financial Act – which provides a withdrawal right for investors (the so-called “<i>jus poenitendi</i>”) in case of door-to-door selling - of a new period according to which the mentioned regime is applicable, as from 1st September 2013, not only to the services of placement of financial instruments and portfolio management, but also to the dealing for own account (pursuant to Section 1, paragraph 5, lett. a), of the Consolidated Financial Act); – the reintroduction, as from 20th September 2013, of the mandatory mediation in civil and commercial disputes (including those related to banking, financial and insurance contracts) regulated by Legislative Decree 4th March 2010, no. 28. As a result, the parties to a dispute must resort (assisted by a lawyer) to a mediator in an attempt to reach an out-of-court 	<u>21st August 2013</u> (OG 20 th August 2013, no. 194)	N.A.

settlement.

1.2 Implementing measures

SUBJECT-MATTER	RELEVANT LAW PROVISION(S)	SUMMARY	ENTRY INTO FORCE	IMPLEMENTATION DETAILS
Department of Treasury of the Ministry of Economy and Finance				
Implementation of AIFMD	Directive 2011/61/EU of 8 th June 2011	<p>On <u>3rd July 2013</u>, the Department of Treasury of the Ministry of Economy and Finance published a consultation paper (in the form of a draft legislative decree) proposing amendments to the Consolidated Financial Act, aimed at transposing into national law AIFMD, as well as Regulations (EU) nos. 345/2013 on European venture capital funds (EuVECA) and 346/2013 on European social entrepreneurship funds (EuSEF).</p> <p>The afore-said changes concern, <i>inter alia</i>,(i) the promotion and marketing conditions of alternative investment funds (AIFs) both to professional and retail clients, and (ii) the introduction of SICAFs (investment companies with fixed capital; “<i>società di investimento a capitale fisso</i>”) among the collective investment undertakings already envisaged in the Italian legal system.</p> <p>The consultation ended on <u>26th July 2013</u>, but the decree has not yet been issued.</p>	N.A.	<p>On <u>26th July 2013</u>, CONSOB and the Bank of Italy issued a joint communication setting out some rules applicable to alternative investment fund managers (AIFMs) from 22nd July 2013 (i.e. transposition deadline of AIFMD) up until the actual transposition takes place.</p> <p>The Italian Government must adopt the decree transposing AIFMD <u>within three months</u> from the entry into force of the European Delegation Law (i.e. by <u>4th December 2013</u>).</p>
Financial intermediaries	Section 106 of the Consolidated Banking Act	On <u>1st August 2013</u> , the Department of Treasury of the Ministry of Economy and Finance published a consultation paper specifying which activities fall within the scope of “ <i>granting loans in whatever form</i> ” (which is reserved to authorised financial intermediaries enrolled in an <i>ad hoc</i> register held by the Bank of Italy), and when such	N.A.	N.A.

		<p>activities must be considered as carried out on a public basis.</p> <p>The consultation ended on 13th September 2013, but the decree has not yet been issued.</p>		
Ministry of Economy and Finance				
Anti-money laundering: clarifications on the “return transaction”	Section 23, paragraph 1- <i>bis</i> , of AML Law	<p>In the course of 2012, by means of Legislative Decree 19th September 2012, no. 169, a new paragraph 1-<i>bis</i> was added to Section 23 of AML Law, according to which the interested persons must return to clients any financial means received in the event they are not able to complete the customer due diligence in respect of such clients (the “return transaction”).</p> <p>On 30th July 2013, by means of a circular, the Ministry of Economy and Finance clarified the scope of the above mentioned provision, by setting out the procedure to be followed with regard to the return transaction. In brief, before returning the financial means to the clients, interested parties must contact the latter and check whether it is possible to complete (by means of an integration to the existing documentation) the customer due diligence within a reasonable period of time. In case of impossibility to finalise the customer due diligence, clients must be provided with a written communication aimed, <i>inter alia</i>, at (i) informing them of the obligation to return any financial means received, as well as (ii) requesting their bank account(s) details necessary in order to carry out the return transaction. Such information must be supplied by the clients <u>within sixty days</u> from the receipt of the above mentioned request.</p>	N.A.	On <u>6th August 2013</u> , UIF published a communication specifying the contents of the information to supply to and obtain from the clients, which must be kept by the interested parties in relation to each return transaction.
“Tobin” Tax	Section 1, paragraph 500, of Law 24 th	On <u>16th September 2013</u> , the Ministry of Economy and Finance published a decree amending Ministerial Decree	<u>20th September 2013</u>	On <u>2nd October 2013</u> , CONSOB published resolution no. 18663, which sets out the

	December 2012, no. 228 (Stability Law for 2013)	<p>of 21st February 2013 (see Italy Regulatory Update no. 2/2013) and providing some clarifications on the application of the Tobin Tax.</p> <p>The decree, <i>inter alia</i>:</p> <ul style="list-style-type: none"> – states that the tax applies also in case of transfer of the bare ownership of shares, equity instruments, asset backed securities or securities; – specifies that allocations of shares and financial instruments and securities representing equity in the face of distribution of profits, reserves or return of capital, are exempted from the tax at issue, regardless of whether the shares are newly issued or already in circulation or are shares belonging to third parties or to the company that allocates them; – simplifies the rules for verifying the prevalence criterion which is relevant for the application of the tax to derivative financial instruments and securities; and – points out that bonds and debt securities are subject to the tax, which do not guarantee the repayment of principal and pre-emptive rights (this clarification will apply from 1st January 2014). 	(OG 20 th September 2013, no. 221)	procedure to be followed in order to submit a request pursuant to Section 16, paragraph 3, sub-paragraphs a), second part, and b), second part, of Ministerial Decree 21 st February 2013 (i.e. exemption request to be submitted by market makers).
Bank of Italy				
New provisions on prudential supervision for banks	Bank of Italy Circular of 27 th December 2006, no. 263 (“ <i>New provisions on prudential supervision for banks</i> ”; the “ Circular ”)	<p>On 3rd July 2013, the Bank of Italy, following a consultation procedure which had ended in November 2012, published an updated version of the Circular.</p> <p>As a result, some additional chapters (namely, nos. 7 (“<i>Internal controls system</i>”), 8 (“<i>Informative system</i>”) and 9 (“<i>Business continuity</i>”)) have been introduced in the Circular.</p> <p>With specific regard to internal controls, the main changes</p>	3 rd July 2013 (OG 24 th July 2013, no. 172)	Effective as from 1 st July 2014. Banks must transmit to the Bank of Italy a “gap analysis” within 31 st December 2013.

		<p>concern:</p> <ul style="list-style-type: none"> - the need to involve the top management; - the goal to identify all the potential risks; and - the efficiency and effectiveness of controls, to be accomplished while applying the proportionality principle. 		
Overreliance on ratings issued by credit rating agencies	N.A.	<p>On <u>22nd July 2013</u>, CONSOB, the Bank of Italy, IVASS and COVIP issued a communication concerning the risk of over-reliance on ratings issued by credit rating agencies.</p> <p>Accordingly, managers of credit institutions, investment firms and pension funds must adopt suitable credit rating assessment procedures aimed at independently assessing their investments and avoiding to rely exclusively and mechanically on the ratings provided by such agencies.</p>	N.A.	N.A.
Prudential supervision of credit institutions and investment firms	Regulation (EU) no. 575/2013 of 26 th June 2013 (“CRR”) and Directive 2013/36/EU of 26 th June 2013 (“CRD IV”)	<p>On <u>6th August 2013</u>, the Bank of Italy published a consultation paper illustrating the actions to be taken in order to give effect to the new EU legislation concerning the prudential supervision of credit institutions and investment firms, introduced by CRR and CRD IV (see Italy Regulatory Update no. 2/2013 for details). The consultation ended on 5th October 2013, but no provision has been issued yet.</p>	N.A.	<p>On <u>5th November 2013</u>, the Bank of Italy published another consultation paper setting out the different options related to the transition regime that can be recurred by the supervisory Authority in order to give effect to CRR and CRD IV implementing measures. The consultation will run until 20th November 2013.</p> <p>Please note that CRR and CRD IV will enter into application on <u>1st January 2014</u>.</p>
Balance sheet of banking and financial intermediaries, payment	Bank of Italy Circular 22 nd December 2005, no. 262 (“ <i>The balance sheet of banks: models and rules for</i> ”	<p>On <u>12th September 2013</u>, the Bank of Italy published a consultation paper aimed at updating Circular no. 262 and modifying the Instructions by implementing the novelties regarding international accounting standards (IAS/IFRS), as homologated by the EU Commission.</p>	N.A.	N.A.

<p>institutions, electronic money institutions, SGRs and SIMs</p>	<p><i>compilation</i>"; "Circular no. 262") Bank of Italy <i>"Instructions for the drafting of the balance sheet and financial statements of financial intermediaries pursuant to section 107 of the Consolidated Banking Act, payment institutions, electronic money institutions, SGRs and SIMs"</i> (the "Instructions")</p>	<p>The consultation ended on 11th November 2013.</p>		
<p>Issues of financial instruments</p>	<p>Section 129 of the Consolidated Banking Act</p>	<p>According to Section 129 of the Consolidated Banking Act, the Bank of Italy may require issuers and offerors of financial instruments issued in Italy by foreign companies or abroad by Italian companies to provide periodic reports, data and information on such instruments. This in order to acquire information on the developments of financial products in the relevant markets. On <u>16th October 2013</u>, the Bank of Italy published a consultation paper providing a new reporting system pursuant to said Section 129 (which will replace the existing one). The consultation process will run until 14th December 2013.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Provisions on prudential</p>	<p>CRD IV and Directive 2011/89/EU</p>	<p>On <u>21st October 2013</u>, the Bank of Italy published a consultation paper containing new provisions on</p>	<p>N.A.</p>	<p>N.A.</p>

<p>supervision for banks – banking groups</p>		<p>prudential supervision for banking groups, as well as changes to the existing provisions on banks' register and holdings.</p> <p>The new provisions are aimed at (i) implementing CRD IV and Directive 2011/89/EU on supplementary supervision of entities belonging to a financial conglomerate, and (ii) strengthening supervision on banking groups, also in light of the international supervisory standards (among which, "<i>Core Principles for Effective Banking Supervision</i>", developed by the Basel Committee), the international debate on shadow banking, and the recent developments of international accounting principles.</p> <p>The consultation process will run until 20th November 2013.</p>		
<p>Rules governing centralised management and liquidation services, guarantee systems, and the related management companies</p>	<p>Sections 68 – 70, 72, 80 and 82 of the Consolidated Financial Act</p>	<p>On 30th October 2013, the Bank of Italy and CONSOB published a document modifying Joint Regulation of 22nd February 2008 containing rules on centralised management and liquidation services, guarantee systems, and related management companies.</p> <p>The above changes to the Regulation are aimed at aligning its provisions with the recent changes to the Consolidated Financial Act introduced by means of Legislative Decrees 24th March 2011, no. 48 (which replaced Section 72 of the Consolidated Financial Act on market insolvencies and repealed Section 202 on mandatory stock exchange settlement), and 18th June 2012, no. 91 (which modified some provisions contained in Part III, Title II, of the Consolidated Financial Act concerning centralised management of financial instruments).</p>	<p>15th April 2014 (OG 5th November 2013, no. 259)</p>	<p>The changes will be effective as from 15th April 2014 in order to allow their addressees to update internal policies and procedures, where necessary.</p>
<p>Anti money</p>	<p>Section 7, paragraph</p>	<p>On 15th July 2013, CONSOB published a consultation</p>	<p>N.A.</p>	<p>N.A.</p>

<p>laundrying – financial promoters’ customer due diligence obligations</p>	<p>2, of AML Law</p>	<p>paper on implementing measures related to customer due diligence obligations of financial promoters enrolled in the special register pursuant to Section 31 of the Consolidated Financial Act. Accordingly, tied agents must comply with all the customer due diligence obligations applicable to the intermediaries they work for.</p> <p>The consultation ended on 15th September 2013.</p>		
<p>Amendments to CONSOB Resolution no. 11971 of 14th May 1999, as amended (the “Issuers Regulation”) on prospectuses, price-sensitive communication, shareholders’ rights and take-over bids</p>	<p>CONSOB Resolution no. 18612 of 17th July 2013</p>	<p>On <u>17th July 2013</u>, (as a result of a consultation procedure ended on 24th May 2013) CONSOB issued a resolution, by means of which some changes were introduced to the Issuers Regulation in order to (i) implement Directive no. 2010/73/EU (“Prospectus Directive”), and (ii) coordinate the same with the changes introduced in the Consolidated Financial Act by means of Legislative Decrees 11th October 2012, no. 184 and 18th June 2012, no. 91.</p> <p>Due consideration was given to the circumstance that, last year, the EU Commission adopted Regulation (EU) 486/2012, amending Regulation (EC) 809/2004 on prospectuses, base prospectuses, summary and final terms, with the consequence that such EU legislation became directly applicable in all the EU Member States.</p> <p>Further changes (mainly relating to take-over bids and others of a merely formal nature) were introduced in the Issuers Regulation with a view to simplify and rationalise the current legislation.</p>	<p>(OG 31st July 2013, no. 178)</p>	<p>N.A.</p>
<p>Gender balance in the composition of administrative and auditing bodies of companies</p>	<p>Sections 147-ter, sub-section 1-ter and 148, sub-section 1-bis of the Consolidated Financial Act.</p>	<p>On <u>18th July 2013</u>, CONSOB published a communication providing some guidelines in relation to the applicability of the principle of gender balance in the members of the administrative and auditing bodies to companies that are about to be listed on a regulated markets.</p> <p>As a result, prior to the listing, the above companies must</p>	<p>N.A.</p>	<p>N.A.</p>

<p>which are in the process of being listed on a regulated market</p>		<p>adapt their articles of association to the gender balance principle, yet without having to integrate their corporate bodies with members of the least represented gender. This being without prejudice to the possibility for the companies to voluntarily adjust their corporate bodies accordingly, prior to the listing. In such a case, however, the first useful mandate would coincide with that subsequent to the listing.</p> <p>Finally, CONSOB recommended that companies about to be listed, which renew their corporate bodies in full (both due to natural and early expiry of the relevant offices) in the run-up to admission for listing, must adjust the composition of such bodies in order to comply with the afore-said principle of gender balance. For the application of such legislation, the first of the three useful mandates would coincide with that following admission to listing.</p>		
<p>Transparency obligations relating to equity investments of trusts</p>	<p>Sections 115, sub-section 2, 120 and 122, of the Consolidated Financial Act</p>	<p>On <u>2nd August 2013</u>, after a public consultation ended on 5th July 2013 (see Italy Regulatory Update no. 2/2013 for details), CONSOB published a communication on transparency obligations relating to significant equity in listed companies held by trusts.</p> <p>On the basis of the new rules, trusts which hold a significant equity investment in the capital of a listed company or take part in a shareholders' agreement will be subject to further disclosure obligations compared with those already provided for in the transparency rules then in force.</p> <p>In particular, when notifying that they have exceeded the relevant thresholds, trusts must communicate to CONSOB, <i>inter alia</i>, the identity of all the parties involved in the trust, any powers to intervene in managing the equity investments, any overlapping between the interested parties (being both natural or legal persons)</p>	<p>N.A.</p>	<p>N.A.</p>

		and those persons which are part of the trust's investment chain.		
New Regulation on sanctionary proceedings	Section 195 of the Consolidated Financial Act	<p>On <u>5th August 2013</u>, CONSOB published a consultation paper containing a new regulation on sanctionary proceedings, aimed at speeding up the exercise of CONSOB's supervisory powers, on the one hand, whilst improving the effectiveness of the deterrent function of sanctions, on the other hand. Moreover, the proposed changes are intended to ensure a better protection of the parties involved, reducing uncertainty in relation to the outcome of the proceedings.</p> <p>Among the main changes:</p> <ul style="list-style-type: none"> – the compression of the proceedings' timeframe, which would be reduced from the current 360 days for parties residing in Italy and 540 for those residing abroad to a single term of 180 days, valid in any case; and – the simplification of the procedure which will be centralised at the administrative sanctions office, with the support of CONSOB's officers involved in the case at issue. <p>The consultation ended on 30th September 2013.</p>	N.A.	N.A.
Anti-money laundering: customer due diligence obligations of legal auditors and independent auditing firms	Section 7, paragraph 2, of AML Law	<p>On <u>26th September 2013</u>, CONSOB published a consultation paper on implementing measures related to customer due diligence obligations of legal auditors and independent auditing firms appointed to audit legal entities of public interest.</p> <p>The proposed new rules have been drafted considering the specific nature of the above activity, which consists of a coordinated series of <i>ex-post</i> accounting controls that</p>	N.A.	N.A.

		<p>must be carried out independently, with no involvement in the underlying decision-making process of the legal entity being audited.</p> <p>The consultation ended on 10th November 2013.</p>		
<p>Amendments to the Issuers Regulation: duty to deliver the Key Investor Information Document (KIID)</p>	<p>Section 98-<i>quarter</i> of the Consolidated Financial Act</p>	<p>On 8th October 2013, after a consultation ended on 3rd May 2013, CONSOB issued Resolution no. 18671, which introduced some changes to the Issuers Regulation, for the purpose of complying with (i) the document published by the ESMA entitled “<i>Guidelines on ETFs and other UCITS issues</i>” (reference 2012/832), and (ii) the Q&A no. 2d of the document “<i>Q&A - Key Investor Information Document (KIID) for UCITS</i>” (reference ESMA/2012/592), which clarifies that the all potential investors, <u>including professional ones</u>, must be provided with a KIID.</p> <p>As a result, new Sections 18-<i>bis</i> and 20-<i>bis</i> have been introduced in the Issuers Regulation, which specify (in relation to Italian open-ended funds and UCITS funds, respectively) that the duty to draft, update and deliver the offering documentation applies also to offerings falling within the scope of Section 34-<i>ter</i> (“<i>Cases of inapplicability and exemptions</i>”) of the Issuers Regulation itself.</p>	N.A.	N.A.
<p>CONSOB Strategic Plan for 2013-2015</p>	N.A.	<p>On 14th October 2013, CONSOB published its strategic plan for 2013-2015, establishing actions to be taken in order to efficiently allocate human and financial resources towards the accomplishment of some strategic goals.</p> <p>Among the risk areas identified by CONSOB, it is worth mentioning the transmission of balance sheets, conflicts of interest between majority and minority shareholders (as well as between intermediaries and clients), bank-clients communications, and transparency and security of</p>	N.A.	N.A.

		transactions carried out on regulated markets.		
IVASS				
Mandatory winding up of insurance undertakings	Title XVI, Chapter IV, of Legislative Decree 7 th September 2005, no. 209 (“ Private Insurance Code ”)	<p>On 3rd September 2013, IVASS published a consultation paper containing a new regulation on the mandatory administrative winding up of insurance companies, which will replace ISVAP (the former supervisory authority) Regulation no. 8/2007.</p> <p>The new regulation is aimed at simplifying the winding up procedure, while ensuring greater autonomy to the interested bodies.</p> <p>The consultation ended on 15th October 2013.</p>	N.A.	N.A.
Administrative and disciplinary sanctions	<p>Sections 9, paragraph 3, and 331 of the Private Insurance Code</p> <p>Section 24, paragraph 3, of Law 28th December 2005, no. 262</p>	<p>On 8th October 2013, IVASS published:</p> <ul style="list-style-type: none"> – Regulation no. 1/2013, concerning the procedure for the application to insurance companies and intermediaries of pecuniary administrative sanctions, which will replace ISVAP Regulation no. 1/2006; and – Regulation no. 2/2013, regarding the procedure for the application of disciplinary sanctions to insurance and reinsurance intermediaries and the rules governing the functioning of the Disciplinary Guarantee Committee, which will replace ISVAP Regulation no. 6/2006. <p>Regulation no. 1/2013 is aimed at rationalising and simplifying the sanctionary procedure, while Regulation no. 2/2013 is directed to transfer the related competence from the legal to the supervisory office within IVASS itself.</p>	<p><u>31st October 2013</u></p> <p>(OG 18th October 2013, no. 245)</p>	N.A.
Adoption of general regulations	Section 23 of Law 28 th December 2005, no. 262	On 5 th November 2013, IVASS published Regulation no. 3/2013 (not yet published in the OG), which implements Section 23 of Law 28 th December 2005, no. 262 setting	<u>1st January 2014</u>	N.A.

		<p>forth criteria to be followed by supervisory authorities when adopting general regulations (except for those concerning their internal organisation).</p> <p>The Regulation is aimed at ensuring compliance with the principles of transparency, proportionality, and active participation of the interested parties.</p>		
Italian Antitrust Authority (Autorità Garante della Concorrenza e del Mercato)				
Regulation on legality rating	Section 5-ter of Law 24 th March 2012, no. 27, converting (with amendments) Law Decree 24 th January 2012, no. 1	<p>On <u>9th September 2013</u>, the Italian Antitrust Authority published a consultation paper containing proposed amendments to the Regulation on legality rating adopted on 14th November 2012 (see Italy Regulatory Update no. 1/2013 for details).</p> <p>Among the main changes, the need to take into account consumer protection as a further criterion when awarding the interested companies with legality ratings.</p> <p>The consultation ended on 10th October 2013.</p>	N.A.	N.A.
Italian Privacy Authority (Autorità Garante per la protezione dei dati personali)				
Guidelines against unsolicited commercial offers through electronic mailing	Decision 4 th July 2013, no. 330	<p>On <u>4th July 2013</u>, the Italian Privacy Authority published some guidelines on unsolicited commercial offers (the so-called “spamming”), which lay down a first consolidated set of measures and precautions that can be helpful both to companies that plan a marketing campaign to advertise their products/services and to individuals wishing to fend off intrusions by companies that flood them with advertising by using their personal contact information without asking for their prior consent.</p> <p>Special attention is paid by the Authority to the “new frontiers” of spamming, such as the “social spam” (i.e. carried out <i>via</i> social networks) or the “viral” or “targeted”</p>	(OG 26 th July 2013, no. 174)	N.A.

		marketing practices that may be increasingly and subtly intrusive of the data subjects' private sphere.		
2. EC/EU LAW				
2.1 Primary legislation				
SUBJECT-MATTER	RELEVANT LAW PROVISION(S)	SUMMARY	ENTRY INTO FORCE	IMPLEMENTATION DETAILS
Adopted Directives and Regulations				
Single Banking Supervision	Section 127, paragraph 6, of the Treaty on the functioning of the European Union	<p>On <u>15th October 2013</u>, the Council of the European Union adopted two regulations aimed at creating a single supervisory mechanism for the oversight of banks and other credit institutions, thus establishing one of the main pillars of the projected Europe's banking union.</p> <p>The single supervisory mechanism ("SSM"), approved by the EU Parliament on 12th September 2013, will be composed of the European Central Bank ("ECB") and the competent authorities of the EU Member States ("NCAs"). It will cover both the Euro area as well as non-eurozone countries that choose to participate. ECB will have direct oversight of eurozone banks, although in a differentiated manner and in close cooperation with NCAs. It will also be responsible for the overall functioning of the SSM.</p> <p>Whilst Regulation (EU) no. 1024/2013 confers supervisory tasks to ECB, Regulation (EU) no. 1022/2013 modifies Regulation (EU) no. 1093/2010 on EBA as concerns EBA's interactions with the SSM.</p>	<p>Regulation (EU) no. 1024/2013: <u>3rd November 2013</u></p> <p>Regulation (EU) no. 1022/2013: <u>30th October 2013</u> (OJ 29th October 2013)</p>	<p>On <u>23rd October 2013</u>, ECB provided details of the comprehensive assessment to be conducted in preparation of assuming full responsibility for supervision as part of the SSM.</p> <p>The assessment will commence in November 2013 and will take 12 months to complete. It will be carried out in close collaboration with NCAs participating in the SSM, and will be supported by independent third parties both at the ECB and at the NCAs level.</p> <p>The ECB will assume its supervisory tasks <u>twelve months after the entry into force of the relevant legislation</u>, subject to due operational arrangements.</p>
Amendments to the Transparency	Directive 2004/109/EC	On <u>17th October 2013</u> , the Council of the European Union, after having reached an agreement with the EU	<u>26th November 2013</u>	The EU Member States must implement the Directive <u>within 24 months</u> from its entry into

Directive	("Transparency Directive")	Parliament, adopted Directive 2013/50/EU updating transparency requirements for issuers of securities on regulated markets introduced in 2004 by means of the Transparency Directive. The agreed improvements are aimed at: <ul style="list-style-type: none"> – simplifying certain obligations so as to make regulated markets more attractive to small and medium-sized enterprises for raising capital; – improving legal clarity and effectiveness (notably with respect to the disclosure of corporate ownership); and – providing for sanctions that are sufficiently dissuasive in the event of transparency requirements being breached. 	(OJ 6 th November 2013)	force.
European market Infrastructure Regulation ("EMIR") on OTC derivatives, central counterparties and trade repositories	Regulation (EU) no. 648/2012	The EU Commission adopted: <ul style="list-style-type: none"> – Regulation (EU) no. 1002/2013, amending EMIR with regard to the list of exempted entities; and – Regulation (EU) no. 1003/2013, supplementing EMIR with regard to fees charged by ESMA to trade repositories. 	8 th November 2013 and 22 nd October 2013, respectively (OJ 19 th October 2013)	N.A.
Legislative proposals				
Money Market Funds	Section 114 of the Treaty on the functioning of the European Union	On 4 th September 2013, the EU Commission adopted a proposal for a regulation on money market funds established, managed and/or marketed in the EU. Such proposal follows several recommendations by global and EU organisations, including the International Organisation of Securities Commissions (IOSCO) and the European Systemic Risk Board (ESRB). The proposed regulation will introduce common standards	N.A.	N.A.

		in order to increase the liquidity of money market funds, whilst ensuring the stability of their structure. Uniform rules will be introduced to ensure a minimum level of daily and weekly liquid assets. Moreover, a standard policy will be established, allowing any fund manager to gain a better understanding of its investor base. Finally, common rules will be provided in order to guarantee that money market funds invest in high quality and well diversified assets of good credit quality. The above measures are aimed at ensuring that the liquidity of such funds is adequate to face investors' redemption requests.		
Political agreement on Market Abuse Regulation	Directive 2003/6/EC ("MAD")	<p>On <u>10th September 2013</u>, the EU Parliament voted to formally endorse political agreement on a Regulation on Market Abuse ("MAR") to tackle market abuse more effectively.</p> <p>The Regulation will update and strengthen the existing framework to ensure market integrity and investor protection provided by MAD. The EU rules will be, in particular, adapted to the new market reality, notably by extending their scope to include all financial instruments traded on organised platforms and over the counter (OTC), and adapting rules to new technology. Moreover, since the sanctions currently available to NCAs often lack a deterrent effect vis-à-vis their addressees, tougher and more harmonised sanctions will be envisaged under the new regime.</p>	N.A.	The final adoption of the MAR will take place after a final political agreement on MiFID II, since the scope of the MAR will depend on the final text of MiFID II and the two pieces of legislation will need to be aligned, also as far as their entry into application is concerned.
Benchmarks in financial instruments and financial contracts	Section 114 of the Treaty on the functioning of the European Union	<p>On <u>18th September 2013</u>, the EU Commission adopted a proposal for a regulation on indices used as benchmarks in financial instruments and financial contracts.</p> <p>The proposal has four main objectives that aim to improve the framework under which benchmarks are provided,</p>	N.A.	N.A.

		<p>contributed to and used:</p> <ul style="list-style-type: none"> – improve the governance and controls over the benchmark process, and in particular ensure that administrators avoid conflicts of interest, or at least manage them adequately; – improve the quality of the data input and methodologies used by benchmark administrators, while ensuring that sufficient and accurate data is used in the determination of benchmarks; – ensure that contributors to benchmarks are subject to adequate controls, in order to avoid conflicts of interest and also that their contributions to benchmarks are subject to adequate controls. Where necessary NCAs should have the power to mandate contributors to continue to contribute to benchmarks; and – ensure adequate protection for consumers and investors using benchmarks by enhancing transparency, ensuring adequate rights of redress and also that suitability is assessed where necessary. 		
Solvency II Directive	Directive 2009/138/EC (Solvency II)	<p>On <u>2nd October 2013</u>, the EU Commission put forward a draft directive postponing the application date of the Solvency II Directive to <u>1st January 2016</u>.</p> <p>The Solvency II Directive, already adopted, creates a modern and risk-based prudential regime for insurance and reinsurance undertakings. National regulatory regimes concerning insurance services, which vary greatly among each-other, are no longer able to guarantee an efficient internal market and prevent possible future crises.</p> <p>The EU Commission proposed this postponement in order to avoid any legal uncertainty, especially for interested</p>	N.A.	N.A.

		undertakings and NCAs.		
Open consultations				
Crowdfunding in the EU	N.A.	On <u>3rd October 2013</u> , the EU Commission launched a consultation inviting stakeholders to share their views on crowdfunding, by focusing on potential benefits and risks, as well as on defining an optimal policy framework which may exploit the potentials of this new form of financing. The consultation runs until 31 st December 2013.	N.A.	N.A.
EMIR: Procedural rules to impose fines on trade repositories (“TRs”)	Sections 64-66 of EMIR	On 29 th April 2013 ESMA received a formal request from the EU Commission to provide technical advice to assist the latter in formulating a regulation on the procedural rules to impose fines or periodic penalty payments to TRs by a delegated act. In light of the above, on <u>18th October 2013</u> , ESMA published a consultation paper which sets out ESMA's preferred options for the procedural rules on imposition of fines and periodic penalty payments to TRs and welcomes comments in order to assist in the production of the advice. The consultation process runs until 15 th November 2013.	N.A.	The technical advice is to be delivered by ESMA to the EU Commission by <u>31st December 2013</u> .
2.2 Implementing measures				
SUBJECT-MATTER	RELEVANT LAW PROVISION(S)	SUMMARY	ENTRY INTO FORCE	IMPLEMENTATION DETAILS
Regulatory	Section 18,	The EU Commission adopted Delegated Regulation (EU)	<u>3rd October 2013</u>	N.A.

<p>technical standards on colleges for central counterparties</p>	<p>paragraph 6, of EMIR</p>	<p>no. 876/2013, supplementing EMIR with regard to regulatory technical standards on colleges for central counterparties.</p> <p>The regulatory technical standards address operational aspects related to the organisation and governance of supervisory colleges that must be set up to assess applications by central counterparties for authorization under EMIR.</p>	<p>(OJ 13th September 2013)</p>	
<p>AIFMD: Memoranda of Understanding (“MoUs”)</p>	<p>Section 34 of AIFMD</p>	<p>On <u>18th October 2013</u>, ESMA published a table showing the state of play of MoUs signed by NCAs. The AIFMD MoUs allow the exchange of information between EU and non-EU supervisors thus enabling non-EU fund managers to market alternative funds within the European Union.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Q&A EMIR: use of Legal Entity Identifiers (“LEI”)</p>	<p>N.A.</p>	<p>On <u>22nd October 2013</u>, ESMA published an update of its Q&A on EMIR with a view to clarify the use of LEI for the purpose of trade reporting to trade repositories.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Updated Q&A on the Prospectus Directive</p>	<p>N.A.</p>	<p>On <u>28th October 2013</u>, ESMA published updated Q&As on the Prospectus Directive, revising a number of current market practices and addressing a number of new issues related to the implementation of the said Directive.</p> <p>The Q&As include revisions of two previous Questions, which deal with:</p> <ul style="list-style-type: none"> – <i>pro forma</i> financial information; and – the level of disclosure concerning price information for share offerings. <p>Moreover, the updated Q&As address a number of new issues under the Prospectus Directive, specifically:</p> <ul style="list-style-type: none"> – the agreement of the auditor (in relation to profit 	<p>N.A.</p>	<p>The revised questions will be applicable from <u>28th January 2014</u>. This will provide market participants sufficient time to adjust to the new approaches.</p>

		<p>estimates);</p> <ul style="list-style-type: none"> – the proportionate disclosure regime for prospectuses for rights issues; and – the proportionate disclosure regime for rights issues and admission to trading. 		
EBA risk dashboard of EU banking sector	N.A.	<p>On <u>29th October 2013</u>, EBA published its first risk dashboard, summarising the main risks and vulnerabilities in the EU banking sector. The dashboard looks at the evolution of Key Risk Indicators (KRI) from 56 banks across the EU and highlights significant improvements, particularly in terms of strengthened capital base.</p> <p>EBA points out that the overall conditions of EU banks have improved, in spite of the weak and uneven recovery across the EU, which still leaves the sector fragile. In particular, data in the EBA dashboard illustrates that capital positions have been significantly strengthened and that funding conditions have recovered. However, the latter remain vulnerable to adverse shocks, with many banks relying on central banks' funding.</p>	N.A.	N.A.
EMIR: list of non-EEA central counterparties that applied for recognition	Section 25 of EMIR	<p>On <u>5th November 2013</u>, ESMA published the list of central counterparties established in non-EEA countries which have applied for recognition under Section 25 of EMIR.</p>	N.A.	N.A.