CLEARY GOTTLIEB

ALERT MEMORANDUM

Italy's New Measures to Mitigate the Economic Effects of COVID-19

April 9, 2020

Last night, the Italian Government published a new decree-law (the "Decree")[1], introducing urgent measures to mitigate the effects of the ongoing Coronavirus Disease 2019 ("COVID-19") outbreak on national economy.

The Decree is primarily aimed at meeting the liquidity needs of Italian businesses, including larger companies and ensuring that the COVID-19 outbreak does not hinder their ability to continue operating as a going concern. Among other measures, the Decree facilitates access to bank financing through state guarantees, amends (and/or suspends the application of) certain corporate, bankruptcy and tax law provisions, postpones the entry into force of the new insolvency code, and extends certain judicial terms in civil and criminal proceedings.

The Decree also significantly broadens the Italian Government's powers to review acquisitions of companies and assets in certain strategic sectors.

This memorandum follows up on our prior alert memoranda outlining certain legal considerations on the key legal issues arising from the virus outbreak, including with reference to Decree-Law No. 18/2020.

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[1] Decree-Law No. 23 of April 8, 2020 (entering into force on April 9, 2020). Under Italian law, a decree-law is adopted by the Italian Government and has the force of law. However, it lapses unless it is ratified by the Italian Parliament within 60 days. The Parliament may also introduce amendments.

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I. Financing

A. *State guarantee to support the liquidity of large enterprises and SMEs*

The Decree introduces temporary measures to support the liquidity of large businesses and SMEs established in Italy. Subject to certain conditions, listed below, and in compliance with the EU State aid control rules, SACE S.p.A. ("SACE"), the Italian export credit agency controlled by the Ministry of Economy and Finance ("MEF") through Cassa Depositi e Prestiti S.p.A. ("CDP"), will issue guarantees (fully backed by a State guarantee) in connection with loans to businesses affected by the COVID-19 outbreak.

Lenders that may benefit from the guarantees are banks, national and international financial institutions and other entities authorized to carry out lending activities in Italy.

SACE's commitments under these guarantees may reach a maximum amount of 200 billion euros, of which at least 30 billion euros to be allocated to SMEs (including self-employed workers and freelancers) that have already used the Guarantee Fund for SMEs (*Fondo di Garanzia per le PMI*) up to the maximum allowed guaranteed amount.

- SACE's guarantees will have to be issued by December 31, 2020, in connection with new loans with a maximum term of 6 years, to be granted after April 9, 2020.
- The guarantees are reserved to borrowers that, as of December 31, 2019, did not qualify as undertakings in difficulty under EU State aid rules and, as of February 29, 2020, were not classified as impaired exposures within the banking system.
- The aggregate amount of loans to a borrower (including other entities of its group) that may be covered by SACE's guarantees (including loans assisted by other State guarantees) cannot exceed the higher of *(i)* 25% of the borrower's annual turnover in 2019, and *(ii)* twice the borrower's labor costs for 2019 (both on a consolidated basis if the borrower belongs to a group).
- The maximum guarantee coverage of the outstanding loans (including principal, interest and ancillary charges) is: *(i)* 90% for businesses with fewer than 5,000 employees in Italy and a turnover of up to 1.5 billion euros; *(ii)* 80% for businesses with a turnover between 1.5 billion and 5 billion euros or more than 5,000 employees in Italy; or *(iii)* 70% for undertakings with a turnover of more than 5 billion euros. [2] Losses on the loans must be shared *pro rata* between SACE and the lender.
- The annual fees payable by borrowers for the guarantees range from 25 to 50 basis points for the first year and rise up to 100 or 200 basis points over time, depending on whether the borrower is a SME or large company. Fees (arguably other than the above annual fees) must be limited to the recovery of costs. In addition, lenders must certify that the costs of the loans covered by SACE's guarantees are lower than the costs of the same loans without such guarantees (to be determined and certified by the lenders).
- SACE's guarantees will have to be on first demand, express and irrevocable, and meet the applicable prudential rules to ensure the highest degree of risk mitigation for the lender.
- Borrowers benefiting from SACE's guarantee must undertake that they, and any other entity established in Italy of the same group, will not approve the distribution of dividends or share repurchases in 2020.
- Other conditions include that: *(i)* the borrower must undertake to manage employment levels though trade union agreements; *(ii)* the lender must demonstrate that, following the granting of the guaranteed loan, the total amount of its exposure to the borrower has increased; *(iii)* the borrower must certify that the guaranteed loan will be used to support labor costs,

[2] Turnover and number of employees must be calculated on a consolidated basis if the borrower belongs to a group.

investments or working capital in production plants and business activities located in Italy.

A simplified application process applies for guarantees in favor of businesses with less than 5,000 employees in Italy and with a 2019 turnover below 1.5 billion euros. Under such process, applications for State-guaranteed loans will be assessed by the relevant lenders, and SACE will only have to verify the positive outcome of the lenders' assessment in order to issue the guarantees. Additional requirements apply if the borrower exceeds either of the above thresholds. In those cases, in addition to the lender's and SACE's assessment, a decree of the MEF in agreement with the Ministry for Economic Development ("MISE") is required.[3]

The new aid regime will become effective upon its approval by the European Commission (the "EC") under the EU State aid control rules. The decree seems compliant with the requirements for aid in the form of public guarantees on loans established in the March 19, 2020 EC Communication setting out a temporary framework for the application of less stringent State aid rules in order to support the economy in the context of the COVID-19 outbreak (the "Temporary Framework"). Indeed, in certain respects the Decree imposes more stringent conditions than the Temporary Framework: for instance, the maximum guarantee coverage will range from 90% to 70% depending on the size of the beneficiary undertaking, whereas the Temporary Framework only sets out a 90% ceiling for pro rata guarantees for businesses of all sizes; moreover, unlike the Temporary Framework, the Decree imposes a dividend distribution ban, and a requirement to manage employment levels in agreement with trade unions.

Further, the Decree provides that, should the Temporary Framework be amended, the requirements and conditions established therein may be adapted accordingly by a decree of the MEF, in agreement with the MISE[4].

The Decree also introduces an additional type of State guarantee, outside of the scope of the Temporary Framework, which is subject to the overall 200 billion euro funding limit: the MEF may grant, by decree and in compliance with the relevant EU rules, a State guarantee on exposures taken on by CDP by December 31, 2020 arising from guarantees granted by CDP on portfolios of loans made by banks and other authorized lenders in Italy to businesses established in Italy that have suffered a reduction in turnover due to the COVID-19 outbreak. The terms of those exposures must require lenders to grant new loans in accordance with the amount of regulatory capital released as a result of the guarantees.

B. *Temporary enhancement of the Guarantee Fund for SMEs*

Liquidity support measures for SMEs consist mainly in temporary enhancements (until December 31, 2020) of the Guarantee Fund for SMEs, which is a guarantee fund established by law and managed by Mediocredito Centrale S.p.A. on behalf of the MISE (the "Fund").

- A wider range of previously excluded borrowers will have access to the Fund's guarantee, including: *(i)* enterprises with up to 499 employees; *(ii)* borrowers whose debt is classified by the lender, after January 31, 2020, as "unlikely to pay" (*inadempienze probabili*) or "overdue or excess overdraft impaired" (*scadute o sconfinanti deteriorate*); *(iii)* businesses which, after December 31, 2019, were admitted to a composition with creditors on a going concern basis, entered into a restructuring agreement or submitted a certified

[3] The MEF decree will have to be adopted on the basis of SACE's assessment, taking into account the role of the borrower in terms of: (a) contribution to technological development; (b) involvement in the logistics and supply network; (c) impact on critical and strategic infrastructures; (d) impact on employment levels and the labor market; and/or (e) specific weight within a strategic production chain. Through the decree, the maximum guaranteed amount applicable to the borrower may be increased up to the immediately higher percentage limit (*i.e.*, to 80% where the applicable maximum guaranteed amount is 70%, to 90% where the applicable maximum guaranteed amount is 80%), subject to the beneficiary's compliance with specific additional commitments and conditions to be indicated in the decree.

[4] Indeed, the Temporary Framework was amended already on April 3, 2020, including its provisions on aid in the form of guarantees on loans.

plan in accordance with bankruptcy laws, subject to certain conditions. Borrowers whose exposures are classified as "non-performing" (*sofferenze*) under banking laws continue to be excluded.

- The Fund's guarantee may be granted also with respect to loans that have already been granted and disbursed (not earlier than three months before the application and, in any event, after January 31, 2020).[5]
- Guarantees will be granted at no cost for the borrowers.
- The maximum allowed guaranteed amount per borrower will be increased from the current 2.5 million euros to 5 million euros. The maximum guarantee coverage will be increased from the current 80% to 90 % of each loan, under the direct guarantee scheme, 100% of each loan, under the counter-guarantee scheme,[6] for loans with a maximum term of 72 months and whose amount does not exceed *(i)* 25% of the borrower's annual turnover in 2019, *(ii)* twice the borrower's labor costs for 2019 (both on a consolidated basis if the borrower belongs to a group) and *(iii)* the working capital needs and capital expenditure requirements for the following 18 months in the case of SMEs and for the following 12 months in the case of businesses with up to 499 employees. This coverage increase is subject to the European Commission's authorization pursuant to state aid rules. Before the Commission's authorization and with respect to loans that do not meet the above conditions regarding term and amount, the maximum guaranteed percentages are, respectively, 80% and 90%.
- The financing arising from restructuring arrangements of existing loans may also benefit from the Fund's direct guarantee (up to 80%) or counter-guarantee (up to 90%), provided that the lender grants additional financing for at least 10% of the residual amount of the original loan.
- Subject to the Commission's authorization pursuant to state aid rules, the maximum allowed guaranteed percentage will be 100% (both under the direct guarantee and the counter-guarantee scheme) for new loans[7] to SMEs and individual entrepreneurs, artists or professionals whose business has been affected by the COVID-19 emergency, provided that principal repayment installments start not earlier than 24 months after disbursement and the loans have a maximum term of 72 months and a maximum amount equal to the lower of 25% of the borrower's turnover and 25,000 euros. The Fund's guarantee in these cases is granted automatically, without assessment, and the lender must pay out the loan immediately, without waiting for the green light from the Fund.
- The Fund's guarantee may be cumulated with other guarantees or collateral assisting loans for real estate investments in the tourism and hotel sectors, having a final maturity of at least 10 years and a minimum amount of 500,000 euros.
- Other temporary facilitations and enhancements are provided for the guarantee coverage by the Fund of portfolios of loans to businesses affected by the COVID-19 emergency.

II. Insolvency and Restructuring

The Decree introduces certain urgent, temporary measures to preserve the business continuity and chances of a successful restructuring of the debtors affected by the COVID-19 outbreak.

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[5] In those cases the lender will have to certify to the Fund that the guarantee causes a reduction of the interest rate of the guaranteed loan.

[6] Under the direct guarantee scheme the Fund intervenes upon request and in favor of the lender, while under the counter-guarantee scheme the Fund intervenes upon request and in favor of the first-level guarantor of the lender (*i.e.* Confidi).

[7] New loans are deemed to be granted if there is an increase of the lender's total exposure to the borrower compared to the situation prior to April 9, 2020.

First, the entry into force of the new insolvency code[8] is postponed from August 15, 2020 to September 1, 2021.[9]

Secondly, certain terms relating to judicial compositions with creditors (*concordato preventivo*)[10] and court-ratified restructuring agreements[11] are amended as follows:

- on condition that a *concordato* or a restructuring agreement has already been ratified by the court, the deadlines for its performance comprised between February 23, 2020 and December 31, 2021 are extended by six months;
- with respect to *concordato* proceedings or restructuring agreements which, as of February 23, 2020, were still pending and had not been ratified yet, the debtor may apply to the court to be granted a term of up to 90 days for filing a new *concordato* plan and proposal or restructuring agreement.[12] As an alternative, the debtor may also apply to extend by up to six months the original deadlines for the performance of such plan or agreement. In each case, the new plan and proposal or agreement must be filed before the ratification hearing;
- with respect to "blank" *concordato* filings (*i.e.*, an initial application not containing the plan and proposal) or during negotiations with creditors for a restructuring agreement, the debtor may file a request to obtain from the court a further[13] term of up to 90 days to file the *concordato* plan and proposal or the restructuring agreement.

Finally, all bankruptcy applications[14] filed between March 9, 2020, and June 30, 2020 (including the application filed by the debtor itself)[15] cannot be reviewed and, if filed, must be submitted again after June 30, 2020. During the same period, the terms for the exercise of claw-back actions are suspended.

III. Corporate Law

The Decree suspends until the end of 2020 the application of the provisions of the Italian Civil Code concerning mandatory recapitalizations.[16] In particular, Italian joint-stock companies (*società per azioni*) and limited liability companies (*società a responsabilità limitata*) that *(i)* suffer losses exceeding one-third of their share capital during the financial year ending by December 31, 2020, and *(ii)* do not cure such shortfall within the following

[8] For further details on Italy's new insolvency code, please see our previous alert memorandum of January 28, 2019 (https://www.clearygottlieb.com/news-and-insights/publication-listing/italys-new-insolvency-code).

[9] The main reason for this postponement is that debtors, courts and advisors would find it particularly challenging to handle the consequences of the ongoing unprecedented crisis with an entirely new and untested set of restructuring and bankruptcy tools.

[10] *Concordato preventivo* is a judicial composition with creditors largely inspired by US Chapter 11 proceedings, which is started upon initiative of the debtor, which must file a plan and a proposal to creditors. After the court admission to the proceedings, unsecured (and impaired secured) creditors are required to vote. Only plans approved by the majority (by value) of creditors can then be submitted to the court ratification, which may cram down dissenting creditors if they are offered a recovery no worse than in case of bankruptcy liquidation.

[11] These are restructuring agreements with creditors holding at least 60% of the aggregate claims, to be ratified by the court in order to benefit from the associated statutory protections (against the risk of claw-back actions and certain bankruptcy crimes).

[12] Pending the proceedings, all enforcement and interim actions brought by pre-petition creditors against the debtor's assets are stayed. Accordingly, this extension should result in extending the term of the stay.

[13] Normally, the debtor would have up to 120 days (extendable once by up to 60 days) to complete the initial filing with the *concordato* plan and proposal or, alternatively, with a restructuring agreement. In case an extension has already been granted under the ordinary rules, the Decree extraordinarily allows the debtor to request for a further extension, provided it shows the reasons – related to the COVID-19 outbreak – justifying the request.

[14] Including for extraordinary administration proceedings under Legislative Decree No. 270/1999 (but not under Decree-Law No. 347/2003, so-called "Marzano" proceedings).

[15] This temporary measure does not apply in case the bankruptcy petition is filed by the public prosecutor and includes an application to the court for the issuance of interim actions aimed at preserving the debtor's assets.

[16] Articles 2446, paras. 2 and 3, 2447, 2482-*bis*, paras. 4, 5 and 6, 2482-*ter*, 2484, para. 1, no. 4, and 2545-*duodecies* (where referring to Article 2484, para. 1, no. 4).

financial year, will not be forced to convene the shareholders' meeting to mandatorily reduce their share capital. This suspension also operates when the share capital falls below the statutory minimum.[17] Therefore, significant losses causing the share capital to fall below such statutory minimum will not lead to the dissolution or winding-up of the company.

Further, the Decree provides that Italian businesses are presumed to be able to operate as a going concern for purposes of the financial statements referring to the current fiscal year. This presumption operates only if such ability can be inferred from the latest financial statements available (even if not yet approved) as of February 23, 2020.

The Decree also provides that shareholders' loans in limited liability companies[18] and loans by parent companies to subsidiaries subject to their direction and coordination (*direzione e coordinamento*) will not be subject to the equitable subordination regime. Accordingly, the repayment of these loans will not be subordinated to the repayment of other creditors and, if these loans were repaid during the year preceding the opening of bankruptcy proceedings, the company will not be entitled to recover the money paid to the shareholder(s) or to the parent company. This exception will apply to loans granted between April 9 and December 31, 2020.

Finally, in order to more easily detect potential takeovers or creeping acquisitions of control over Italian listed companies, the Decree broadens the powers of the Italian market regulator (Consob) on the disclosure of significant shareholdings:

- the 3% threshold, currently triggering the obligation to disclose significant stakes in an Italian listed company, may be lowered by Consob for companies with a particularly dispersed ownership structure (in order for Consob to lower this threshold, it is no longer necessary that these companies also have a very high capitalization);
- Consob may provide for a limited period that, in case of an acquisition of a stake equal to or above 5% in an Italian listed company with a particularly dispersed ownership structure, the acquirer be obliged to state the objectives it intends to pursue in the following six months (thereby adding the 5% threshold to the 10%, 20% and 25% thresholds already provided by Italian law).

IV. Golden Power

The Decree amends the existing Government control regime over foreign investments in certain strategic sectors (the "FDI Regulation").[19]

In particular, the Decree *(i)* extends the FDI Regulation to new strategic sectors, including banking and insurance, (*ii*) empowers the Government to proceed *ex officio*, and *(iii)* temporarily broadens the scope of reviewable transactions, to include, among other things, also acquisitions of control by EEA entities.

A. *New strategic sectors*

In addition to the existing sectors[20] covered by the FDI Regulation, the Decree now enables the Government to review and exercise its powers over the acquisition by non-EEA entities of controlling interests in the share capital of Italian companies active or holding assets in any of the sectors referred

[17] Generally, 50,000 euros for joint-stock companies and 10,000 euros for limited liability companies.

[18] This provision expressly applies only to limited liability companies and to companies subject to the direction and coordination of another entity (irrespective of their corporate form). However, according to the most recent case law by the Italian Supreme Court, under certain circumstances this regime may also apply to joint-stock companies, especially when the features of the joint-stock company resemble the typical features of limited liability companies (*e.g.*, in case of a family-owned joint-stock company in which the shareholder providing the loan also sits on the board of directors).

[19] The existing framework is set forth under Decree-Law No. 21/2012. For a general review, please see our alert memoranda dated May 17, 2012 (https://www.clearygottlieb.com/-/media/organize-archive/cgsh/files/publication-pdfs/the-new-italian-governments-golden-share-2012.pdf) and April 5, 2019 (https://www.clearygottlieb.com/-/media/files/alert-memos-2019/extension-of-italys-foreign-investment-regulation-to-high-tech-assets.pdf).

[20] These consist of *(i)* defense and national security, *(ii)* 5G technologies, and *(iii)* energy, transport, and communications networks.

to under Article 4.1 of the EU Regulation on foreign direct investments (the "EU Regulation").[21]

Such sectors (together, the "New Sectors") include, among others:[22]

- the financial sector, including the credit and insurance sectors;[23]
- critical infrastructures, whether physical or virtual, including health and financial infrastructures;
- critical technologies, including artificial intelligence, cybersecurity and aerospace;
- supply of critical inputs, including energy or raw materials, as well as food security;
- access to sensitive information, including personal data, or the ability to control such information; and
- the freedom and pluralism of the media.

The Government may exercise its powers in these New Sectors until the adoption of a Government regulation identifying in greater detail the specific assets and activities falling within such categories.

B. *New* ex officio *powers*

In the event of a breach of the notification obligations under the FDI Regulation, the Government will have the power to initiate *ex officio* an investment screening procedure for the purpose of exercising its special powers.

C. *Interim special powers*

Until December 31, 2020, for the purpose of coping with the extraordinary effects caused by the COVID-19 outbreak, the Decree extends the scope of transactions that must be notified to the Government and in respect of which the Government may exercise its special powers, to:

- any corporate resolution or transaction adopted by entities active or holding assets in the New Sectors that results in a change of ownership, control or use of such assets;
- any acquisition, also by EEA entities, of a controlling interest in the share capital of any Italian company active or holding assets in any[24] strategic sector (including the New Sectors);
- any acquisition, by non EEA-entities, of interests (*i*) at least equal to 10%[25] (provided that the aggregate value of the investment is at least equal to 1 million euros), or (*ii*) exceeding 15%, 20%, 25%, and 50% of the share capital of any Italian company active or holding assets in any[26] strategic sector (including the New Sectors).

V. Tax

The Decree introduces a number of tax measures mainly aimed at postponing payments and easing procedural obligations.

A. *Deferral of Tax and Social Security Payment Deadlines*

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[21] Regulation (EU) 2019/452 of the European Parliament and of the Council of March 19, 2019 establishing a framework for the screening of foreign direct investments into the Union.

[22] The sectors referred to under Article 4.1 of the EU Regulation also include: (*i*) energy, transport, water, communications, media, data processing or storage, aerospace, defense or electoral infrastructures, and sensitive facilities, as well as land and real estate crucial for the use of such infrastructures; (*ii*) dual-use items, including software and technology, which can be used for both civil and military purposes, including all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices, robotics, semiconductors, defense, energy storage, quantum and nuclear technologies as well as nanotechnologies and biotechnologies.

[23] These are not expressly referred to in the EU Regulation, which makes reference to "financial infrastructures" only. Therefore, the Decree expressly includes in the "financial sector", the credit and insurance sectors, thereby adding banks, insurance and other financial services companies to the scope of the FDI Regulation.

[24] Under the ordinary rules, the Government powers apply to investments from EEA-investors only if these concern the sectors of defense and national security.

[25] Under the ordinary rules, the Government may exercise its powers only in case of acquisition of a controlling interest, except in case the target is active in the defense and national security sector.

[26] Under the ordinary rules, the Government powers extend to investments from EEA-investors only if these concern the sectors of defense and national security.

Withholding tax on employment or quasi-employment income, VAT, social security and compulsory insurance premiums payments due in April and May 2020 may be postponed until June 30, 2020 and made thereafter in one installment or spread on a straight-line basis over a five-month period as of June 2020.

Both business or professional services firms located in Italy[27] may access the measure insofar as *(i)* in March or April 2020 they have a turnover or earn revenues at least 33% lower that their March and April 2019 turnover or revenues,[28] and *(ii)* in 2019 they had a turnover or earned revenues not exceeding 50 million euros. Such reduction must be of at least 50%, if in 2019 they had a turnover or earned revenues in excess of 50 million euros.[29]

Moreover, self-employed taxpayers located in Italy having 2019 revenues not exceeding 400,000 euros may opt not to be subject to withholding taxes with respect to payments received between March 17 and May 31, 2020, if they have not incurred any employment-related expenses in the previous month. Such deferred taxes will be due no later than July 31, 2020 and paid in one instalment or spread on a straight-line basis over a five-month period as of July 2020.

Penalties and interest are waived.

B. *Estimated Tax Payments*

No penalties and interest will be applied to taxpayers that fail to pay up to 20% of their 2020 estimated tax payments.

C. *Dividends Earned via Certain Domestic Partnerships*

In late 2019, special rules were introduced to ensure that dividends paid to certain Italian partnerships (*società semplici*) by Italian resident entities be taxed on a look-through basis directly in the hands of its resident partners. The Decree extends the application of this regime to foreign-sourced dividends and non-resident partners. As a result, foreign-sourced dividends will no longer be subject to double taxation and non-resident partners will benefit from reduced domestic or treaty withholding tax rates on Italian-sourced dividends. The change applies to dividends cashed by such partnerships as of January 1, 2020.

VI. Judicial Proceedings

The Decree further impacts the organization of civil, tax and criminal proceedings during the outbreak, as it extends to May 11, 2020 the suspension set forth under Decree-Law No. 18/2020. Therefore:

- all civil, tax and criminal hearings scheduled between March 9 and May 11 have been adjourned and will be re-scheduled to a date after May 11, 2020;
- all procedural deadlines for civil, tax and criminal proceedings are suspended until May 11, 2020, including deadlines to start ordinary and enforcement judicial proceedings, as well as to challenge court decisions;
- the suspension also applies to out-of-court settlement procedures governed by specific legal provisions (*e.g.*, mandatory mediation);
- the mentioned provisions do not apply to certain urgent matters;[30]
- between May 12 and June 30, 2020, courts are allowed to: *(i)* limit access to the courthouse and/or postpone future hearings, except for urgent activities; and *(ii)* replace in-person

27 Namely, businesses or professionals, regardless of whether they are operating individually, as partnerships or corporations, having a tax domicile, legal or operating seat in Italy.

28 With respect to VAT only, business or professional services firms located in the provinces of Bergamo, Brescia, Cremona, Lodi and Piacenza, can benefit from the deferral regardless of their 2019 turnover or revenues, insofar as they meet the 33% turnover/revenue reduction illustrated in the text.

29 No turnover/revenue reduction requirement is contemplated for business of professional services firms that commenced their operations after March 31, 2019 and for charitable entities (which, however, cannot defer VAT payments).

30 As regards civil proceedings, the Decree qualifies the following as urgent matters: *(i)* family and personal rights and status (such as adoption, minors, and alimony obligations); *(ii)* interim measures to protect fundamental human rights; and *(iii)* all cases where a delay could cause a serious harm to the parties, and where this harm is established by the judge by a specific decision.

hearings with video or audio-conference hearings and/or written submissions and in-chambers decisions by the court.

The Decree also affects judicial proceedings before administrative courts, suspending the relevant procedural deadlines from April 16 to May 3, 2020. This suspension applies exclusively to the deadlines to start a judicial proceeding as well as to challenge court decisions. It does not apply to the deadlines to start a proceeding for *interim* relief.

In addition, the Decree suspends the running of deadlines until May 15, 2020 for all the proceedings (including public procurement proceedings) pending before administrative authorities on February 23, 2020 or started after that date. The deadlines will start running again after May 15, 2020. Notwithstanding the suspension, administrative authorities should adopt every measure suitable to ensure in any case the reasonable duration and the prompt conclusion of the proceedings, giving priority to those considered urgent.

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