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Italian Report

by

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1. This Report addresses how Italy is dealing with consumer loans in the context of the Coronavirus emergency. The general lock-down of most social and economic activities has resulted in a lack of liquidity for individuals and enterprises, putting borrowers in a situation of difficulty or impossibility to regularly pay back their loan installments.

This Report focuses on consumers, not on enterprises, for which different instruments, also dealing with loans, have been created.

2. So far Italy has acted very fragmentarily, introducing **three Decree-Laws** aiming at avoiding/attenuating the passing on to Italian families of the pandemic's effects on the real economy. The first one has been **Decree-Law 2 March 2020 n. 8**, "*Misure urgenti di sostegno per famiglie, lavoratori e imprese connesse all'emergenza epidemiologica da COVID-19*", in Gazzetta Ufficiale, Serie Generale n. 53 of 2 March 2020, in force since 2 March 2020. The second one, broader, is **Decree-Law 17 March 2020, n. 18**, "*Misure di potenziamento del Servizio sanitario nazionale e di sostegno economico per famiglie, lavoratori e imprese connesse all'emergenza epidemiologica da COVID-19*", in Gazzetta Ufficiale, Serie Generale, n. 70 del 17.3.2020, in force since 17.3.2020. The third one is the so-called "**Decree-Law Liquidity**" of **8 April 2020, n. 23** "*Misure urgenti in materia di accesso al credito e di adempimenti fiscali per le imprese, di poteri speciali nei settori strategici, nonché interventi in materia di salute e lavoro, di proroga di termini amministrativi e processuali*", Gazzetta Ufficiale, Serie generale n. 94 of 9 April 2020, in force since 9.4.2020.

3. As far as **consumer loans are concerned, only the loans for the acquisition of the so-called "first home"**, i.e. the residential property in which a family/individual dwells, have

been dealt with by these legislative instruments (excluded are therefore loans for the acquisition of ‘second houses’ and commercial properties).

Decree-Law 2 March 2020 n. 8 establishes an **extension of the use of a special Solidarity Fund (already existent) to the Coronavirus emergency**, in the following way.

First of all, it must be recalled that the above **Solidarity Fund** (so-called “**Fondo Gasparrini**”) has been established and regulated by **Law 24 December 2007, n. 244** (section 2, subsections 475-480) for the borrowers of loans devoted to the acquisition of the ‘first home’ only.

According to Subsection 476 of Law 24.12.2007, n. 244, “for loans devoted to acquisition of the ‘first home’, residential property of the borrower, **the latter can ask to suspend the obligation to pay installments no more than twice and for an overall period of no more than 18 months during the contractual relationship**. In this case, the loan duration, as well as the accessory securities granted for the loan, are prorogated of an equal period as the suspension. **After suspension, the obligation to pay installments is reactivated according to the original contract**, except in case different agreement between the parties stipulated in a loan renegotiation”.

The Solidarity Fund **covers the banking and notarial costs connected with the postponement** of the installments (subs. 478).

In order to benefit from the Fund according to subs. 476, **the borrower must display** – in the ways to be established by a ministerial implementing Regulation – **to be unable to regularly pay back the installments and the costs connected to their suspension** (subs. 479). Such situations of temporary inability to pay regard, e.g., termination of an employment contract, death or severe invalidity of the borrower. In any case, to benefit from the Fund, the (mortgage) loan must be **originally stipulated for a total amount not above 250.000 Euro, must be stipulated from at least more than 12 months, and must produce an ISEE statement declaring s/he has an annual income not above 30.000 Euro**.¹

4. **To tackle Coronavirus emergency**, the first **Decree-Law 2 March 2020 n. 8** establishes, in **Art. 26**, that among the situations of inability to pay which are required to benefit from the Fund, “**the suspension from the work activities or the reduction of the working hours for a period of at least 30 days**” must be added.

¹ ISEE is an indicator (known with its acronym ISEE) certifying the poverty level of Italian families, considering a series of data as the number of the people living in the families, family structure/quality (children, handicapped, etc.), revenues, movable and immovable assets.

5. Yet, this provision needed to be extended and improved, and this has occurred by way of the **Decree-Law 17 March 2020, n. 18, known as Decree “Healing Italy/Cura Italia”**. This broader instrument individuates 4 sectors of intervention: (i) enhancement of the public Health System and Civil Protection; (ii) protecting citizens’ jobs and income; (iii) supporting liquid assets (money) to enterprises and families; (iv) postponement of payment deadlines for taxes and social security contributions.

Title III of Decree-Law n. 18/2020 is devoted to “Measures sustaining liquidity through the banking system” and regards provisions devoted to both enterprises and consumers/families. With regard to the latter, **Art. 54 is entitled “Implementing the Solidarity Fund Loans ‘first-home’”**.

According to subsection 1 of this Article, **“for a nine-months period after the entry into force of this Decree-Law (17.3.2020), and derogating from the ordinary rules of the Solidarity Fund Loans ‘first-home’:**

- (a) Admission the Fund’s benefits is extended to self-employed workers and professionals self-certificating that, in the three months after 21 February 2020, or in the minor time-frame between the date of the request and the above 21 February 2020, a decrease in their revenue higher than 33% of the revenue of the last three-months period of 2019, as a consequence of the lock-down or limitation of the own activity in compliance with the Authority dispositions for the Coronavirus emergency;**
- (b) To access the Fund no indicator of the own economic situation is needed.”²**

Furthermore, and adding to the default regulation of the Solidarity Fund according to Law n. 244/2007, **subsection 2 of Art. 54 Decree-Law n. 18/2020**, establishes that for loans granted by banks and financial intermediaries, **the Solidarity Fund, on borrower’s demand presented by the financial institution itself, pays off compensatory interest in the amount of 50% of the interest due during the suspension period.**³

Subsection 3 of Art. 54 provides that with Decree of the Ministry of Economy implementing rules for this Article can be issued.

Subsection 4 of Art. 54 increases the financial assets/endowment of the Solidarity Fund adding 400 Millions euro for 2020.

² The ISEE mentioned in fn. 1 above.

³ Provision healing more the banks than consumers, personal opinion by the author of the Report.

6. Furthermore, the so-called “**Decree-Law Liquidity**” of 8 April 2020, n. 23 “*Misure urgenti in materia di accesso al credito e di adempimenti fiscali per le imprese, di poteri speciali nei settori strategici, nonché interventi in materia di salute e lavoro, di proroga di termini amministrativi e processuali*”, Gazzetta Ufficiale, Serie generale n. 94 of 9 April 2020, in force since 9.4.2020, with Art. 12, adds two little provisions to the above stratificated regulation. First, subs. 1 of Art. 12 defines self-employed workers in the meaning of Decree-Law n. 18/2020 Art. 54 Subs. 1, as those defined by Art. 27 of the same Decree-Law. Second, a little new derogation from the ordinary rules governing the Solidarity Fund (Law n. 244/2007) is established by Subs 2 of Art. 12, stating that **access to the Fund can be granted also for loans stipulated from a period below 12 months.**

7. All the mentioned Coronavirus Decree-Laws contain other measures supporting liquidity for consumers and families, not dealing with loans management, but with the postponement of tax duties, pension and social security payments, mandatory insurances, and similar, for both consumers and enterprises. Postponement of such payments is generally operative till 31 May 2020.

How to ask for suspension of the loan’s installments?

The person entitled to the request has to fill in in an on-line form available at: http://www.dt.mef.gov.it/export/sites/sitodt/modules/documenti_it/interventi_finanziari/interventi_finanziari/ModuloSospensioneMutui2020.pdf. The filled in form must be delivered to the bank granting the loan to be suspended (the lender). Beneficiaries can be also persons having already benefited of the suspension according to Law n. 244/2007, if they have paid regularly the last three installments.

See the form in attachment to this Report.