FRESHFIELDS BRUCKHAUS DERINGER

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BRIEFING

Recent amendments to Italian rules on issues and offers of securities

Summary

The Bank of Italy has updated the rules implementing article 129 of the Italian Banking Law. The notification requirements now apply to issues for higher amounts and the concept of 'standard securities' has been broadened to take into account recent developments in financial markets.

On 14 October the Bank of Italy revised the rules implementing article 129 of Legislative Decree no 385 of 1993 (the Banking Law) to take into account developments both in the size of the primary market (which currently has pan-European dimensions) and the features of the securities offered. The new rules have been issued pending the amendment to the *Istruzioni di Vigilanza* issued by the Bank of Italy and have been faxed to market operators. This briefing provides a brief outline of these amendments.

Notification thresholds for standard securities

The requirement to submit a prior notification will apply to the following situations:

- issues and offers of standard securities for an overall amount exceeding €2bn. This amount is calculated by taking into account all offers by the same issuer in the last 12 months; or
- the threshold is increased to €4bn in the case of:
  - securities listed or intended to be listed on a regulated market;
  - issues and offers falling within a 'cumulative' communication; or
  - issues and offers falling within a 'shortened' communication.

New standard securities

The following securities are now deemed to fall under the definition of 'standard securities'.

- Plain vanilla, put and call covered warrants on listed shares, stock indexes and currencies of the A-zone of the Organisation for Economic Co-operation and Development (OECD) (A-zone).
- Bonds linked to Italian and Eurozone consumer price indexes.
- Bonds linked to a 'static' basket of undertakings for collective investment in transferable securities (UCITS) funds registered for marketing in Italy.
- Bonds with a maturity not exceeding five years with a minimum guaranteed yield and linked to a basket of financial assets whose composition changes based on a constant proportion portfolio insurance strategy.
- Guaranteed bonds issued on the basis of ad hoc regulations by authorised intermediaries (eg covered bonds and *Pfandbriefe*).
- Certain securities representing innovative capital instruments, hybrid capital instruments and subordinated liabilities issued by A-zone banks.
- Certain bonds with a maturity not exceeding 15 years with a coupon equal to the higher of (i) a guaranteed minimum and (ii) a multiple of the difference between two A-zone currencies' interest rates.
- Targeted amount redemption notes with their variable yield linked to standard criteria.
- Loan participation notes addressed to institutional investors only.
- Securities issued by banks and financial intermediaries with a registered office in EU or A-zone countries with an investment grade rating ('qualified states'); companies listed on qualified states' regulated markets; and financial subsidiaries

controlled by financial intermediaries with registered office in qualified states when
  - the securities or the issuer (when the securities are unsubordinated) or the guarantor have an investment grade rating; or
  - they are addressed solely to institutional investors (with the exclusion of individuals) and if mainly addressed to Italy with a minimum denomination of €50,000.

- Securities issued by corporate issuers with a registered office in a qualified state when
  - the securities or the issuer (when the securities are unsubordinated) or the guarantor have an investment grade rating; or
  - they are addressed solely to institutional investors (with the exclusion of individuals) and if mainly addressed to Italy with a minimum denomination of €50,000.

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