

**CAPITAL
MARKETS**

**New Transparency
Directive implementation**

On 13 November 2015, the Italian Council of Ministers approved the draft Legislative Decree implementing Directive 2013/50/EU (the New Transparency Directive) concerning the transparency obligations of listed companies (see [Our Echo - October 2015](#)), which is intended to amend certain provisions of Legislative Decree no. 58 dated 24 February 1998 (the Financial Act). The draft decree is available [here](#). In the context of the New Transparency Directive, the Italian Companies and Stock Exchange Commission (i) on 25 November 2015, issued resolution no. 19446, which amended certain provisions of the Issuers' Regulations (resolution no. 11971, 14 May 1999) concerning the obligation to disclose major share holdings, including the reduction of the minimum threshold to disclose "long positions" from 10% to 5% ([art. 119](#)); and (ii) on 30 November 2015, launched a public consultation on further proposed amendments to the [Issuers' Regulation](#) concerning ownership structures, disclosure in relation to financial instruments having a similar economic effect to shares and possible disclosure exemptions.

Commission proposal for regulation on prospectus

On 30 November 2015, the European Commission, within the framework of the Capital Markets Union Action Plan, issued a proposal for a regulation on the prospectus to be published when securities are offered to the public or admitted to trading, which would replace Directive 2003/71/EC (the so-called Prospectus Directive). The main changes concern, inter alia the possibility for a Member State to exempt from the prospectus requirement offers of securities to the public in certain circumstances and a minimum disclosure regime for "secondary issuances" (i.e. issuers whose securities have been admitted to trading on a regulated market or small and medium-size enterprises). The text of the proposal is available [here](#).

**BANKING AND
FINANCE**

**Supervisory Instructions for
Banks updated**

On 24 November 2015, the Bank of Italy (BI) modified Circular no. 285 of 17 December 2013 concerning Supervisory Instructions for Banks (the Circular). This update (no. 14) amended chapter no. 11 on liquidity and chapter 12 on the leverage ratio for banks and investment companies, in order to take into account the provisions of EU Regulations no. 2015/61 and 2015/62 concerning the Liquidity Coverage Requirement and the Leverage Ratio. BI clarified that amendments introduced in accordance with the abovementioned EU Regulations shall be disregarded with reference to chapter 11 (liquidity) insofar as SIMs (Società di Intermediazione Mobiliare) – brokerage companies – or SIM Groups are concerned. On 30 November 2015, BI issued a Communication with the purpose of clarifying the dispositions applicable to SIMs and SIM Groups after update no. 14, which are available at this [link](#).

LABOUR

**INPS clarifications on
the Jobs Act**

The Italian Social Security Authority (INPS) has recently issued two communications providing some clarification of the Jobs Act. Circular no. 194/2015 concerns the NASpl, the new unemployment allowance for employees (find the full text [here](#)), while Circular no. 197/2015 provides some guidance with reference to the new rules applicable to the Cassa Integrazione Guadagni (the Wage Guarantee Fund) (find the full text [here](#)).

New rules on consultancy relationships in force

As from 1 January 2016, consultancy relationships that are personally carried out by an individual on a continuous basis and that are "organised by the employer also in terms of working time and place of work" will be considered as subordinate employment relationships. The only exceptions to this rule are certain consultancy agreements, including those regarding professional services that require subscription to public registers (i.e. those rendered by architects, lawyers, doctors, engineers, etc.) and those entered into with managing directors.

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COPYRIGHT

**Italian Constitutional Court on
AGCOM power over copyright**

On 26 September 2014, following claims by two service providers and consumers' associations, the Regional Administrative Court of Lazio challenged the "Regulation for the protection of copyright on electronic communications networks" (see [Our Echo - September 2015](#)) before the Italian Constitutional Court, for alleged conflict with the principle of freedom of expression. On 21 October 2015, the Constitutional Court stated in its judgment no. 247/2015 that the question of constitutional legitimacy was formally inadmissible. An appeal is still pending. For further information click [here](#).

**DESIGN/
COPYRIGHT**

Copyright protection of design

In its decision of 13 November 2015 (no. 23292/2015), the Italian Supreme Court ruled on the protection of industrial designs (of certain benches) pursuant to Copyright Law. The case was brought by a company active in the production of outdoor furniture, which sued a competitor for copyright infringement claiming to have designed a line of benches which, due to its creative and innovative nature, should be protected pursuant to Copyright Law (which requires "artistic value" for design work to be protected). The Court dismissed the plaintiff's claims, pointing out that the mere display of the benches at a commercial fair (in Shanghai) was not sufficient to demonstrate the artistic value of the work. According to the Court, the "artistic value" should be recognised for works appreciated in "cultural environments" (as demonstrated by exhibitions and publications).

PRIVACY

**Agreement on the EU Data Protection
reached**

In a press release of December 15, 2015, the European parliament officially announced that "a strong compromise on how to ensure a high level of data protection across the EU was agreed by Parliament and Council negotiators in their last round of talks on the data protection package... it is now up to member states to give a green light to the agreement". The two draft laws in the package - a regulation and a directive - have been confirmed by the Civil Liberties Committee on 17 December. The new regulation, not yet published, is expected to increase the level of protection of individual rights, as well as the obligations for organisations and penalties for breach (which could according to unconfirmed predictions, amount to up to 4% of the relevant company's annual global turnover). The regulation will be put to a final vote in early spring 2016 and (if approved) will take effect in spring 2018. For further information click [here](#).

INDUSTRIES

E-COMMERCE

**Commission proposal for new
directive on online and distance
sales of goods**

The European Commission has presented a draft proposal for a directive on certain aspects of contracts for online and other distance sales of goods. The proposal lays down certain requirements concerning distance sales contracts concluded between a seller and a consumer, in particular rules on conformity of goods, remedies in case of non-conformity and the modalities for the exercise of these remedies. For additional information on this draft see [here](#).

ODR Platform to be effective as from 9 January 2016

[EC Regulation No. 524/2013](#) (the "ODR Regulation"), which introduced the European Online Dispute Resolution Platform for consumer disputes (the "ODR Platform"), will be effective as from 9 January 2016. The ODR Regulation will enable EU consumers and traders to submit contractual disputes arising from online sales or service contracts to ODR online, thanks to an EU-wide dispute resolution ODR Platform. As from the effective date of the ODR Regulation, e-commerce players and any other providers of online services will need to amend their websites to provide customers with information on the ODR Platform (including a link to the ODR Platform).

FASHION

**The Supreme Court on
fashion trademarks**

In its judgment dated 24 November 2015 (no. 23891/2015) the Italian Supreme Court decided a dispute between two major players in the Italian fashion industry, Lotto (acting as the plaintiff) and MaxMara (acting as the defendant) regarding alleged counterfeiting (in a mark used by MaxMara) of a trademark formed by a double lozenge (owned by Lotto). The Court confirmed the second degree judgment, issued by the Turin court, which excluded the likelihood of confusion of the two marks since the mark used by MaxMara was characterized by graphics that appeared novel in the overall structure and in the complex connection of geometric elements used.

MEDIA

**"Direct injection" to signal
distributors not an "act of
communication to the public"**

On 19 November 2015, the EUCJ issued a judgment ([Case C-325/14](#)) stating that a broadcaster of copyright-protected content (SBS Belgium) which transmits its content-carrying signals exclusively to signal distributors (Belgacom, Telenet etc) via the technique of "direct injection" – i.e. without those signals being accessible to the public during and as a result of that transmission – does not carry out an act of "communication to the public" within the meaning of Article 3(1) of Directive 2001/29/EC. As a result, in such a situation the person liable to request authorisation and to pay the relevant royalties to authors is not the original broadcaster but the signal distributor, which transmits the content to its subscribers as an autonomous service. However, when the transmission of the signal distributor is merely "a technical means of ensuring or improving reception of the original broadcast in its catchment area", then the act of communication to the public is effected by the original broadcaster and not by the signal distributor.

EU Commission to allow cross-border portability for online content

On 9 December 2015, the EU Commission presented its proposal for a Regulation aimed at ensuring the cross-border portability of online content in the internal market, in order to supersede the geo-blocking measures currently applied for streaming. Pursuant to this proposal, EU citizens will have access to their home-country subscriptions (movies, e-books, football matches, TV shows) from any other EU Member State. The European Parliament and EU Council should approve the above-mentioned proposal before it becomes directly applicable in the whole European Union (enactment of the Regulation is expected in 2017). For further information please click [here](#).

FOOD & BEVERAGE

**New Commission guidelines on
joint selling**

On 27 November 2015, the European Commission issued [new guidelines](#) that explain how farmers may jointly sell certain agricultural products to strengthen their bargaining power vis-à-vis large buyers in compliance with EU competition rules. Standard competition rules which prohibit anticompetitive agreements and the abuse of a dominant position (i.e. Arts. 101 and 102 TFEU) apply to the agricultural sector subject to specific derogations set forth in the [Common Market Organisation Regulation](#). The new guidelines explain three specific efficiency-based derogations that allow producers of olive oil, beef and veal, and arable crops to jointly sell and set prices, volumes and other terms through recognised organisations on condition that: (i) such organisations make farmers significantly more efficient by providing them with supporting activities such as storage, transport or distribution; and (ii) the volume marketed by a given organisation does not exceed certain thresholds (further info available [here](#)).

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