

Football Investment in Italy: *Quo Vadis* Football?



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→ **Sport entities - Corporate law - Italian Football Association (FIGC) - Serie A League - National law - National Regulations - Financial control - Multi-Club Ownership (MCO)**

This article provides a general overview of the legal framework applicable to M&A transactions involving football clubs in Italy.

Introduction - The Context

In recent years, interest in Italian football by foreign investors has grown rapidly. Improving the economics of sports has had a profound impact on Italian football, which has been experiencing an influx of acquisitions by foreign investors. Historically a closed market to outsiders (in 2011, all Italian *Serie A* clubs were owned by Italians), foreigners now own 9 of the 20 clubs in *Serie A*.¹ International interest in Italian football has also spread beyond Italy's top league, with foreign investors purchasing various teams in *Serie B* and *Lega Pro*. This increase in investment and outside capital is helping the Italian football market experience growth after years of stagnation and to move away from being a closed, outdated and uncompetitive institution. *Serie A*, along with Italy's more junior leagues, represent an exciting opportunity for investment as many teams remain grossly undervalued due to the financial impact of COVID-19, underinvestment in league infrastructure and lack of access to capital.²

While Italian football admittedly has its issues, its history and unique characteristics make it particularly attractive for investment. In addition to having undervalued teams, some key differentiators include (i) lack of competition for sports viewers as Italian football dominates sports viewership (sports viewership in other European countries is typically spread across multiple sports); (ii) status as one of the Big-5 European leagues³ which attract the largest media rights, sponsorship deals and international fanbases; and (iii) the ability to exploit tourism and capitalize on visitors in cities with high tourist traffic. Furthermore, the first Italian league of women's football recently obtained professional status. This is not only an important step for the growth of women's football but also an opportunity for new revenue streams. All of this translates into Italian football being an exciting place to be.⁴

¹ Roma, Atalanta, Bologna, Fiorentina, Genoa, Inter, Milan, Spezia and Venezia.

² Notably, several teams in *Serie A* are currently valued at less than clubs in the Championship league (the 2nd English division). Further, growth in Italian football has lagged other European football markets over the past few years given Italy has not adopted the same initiatives as other leagues. For example, only three new stadiums have been built in Italy over the past 10 years (compared with 153 in Europe) and Italy has the highest percentage of government-owned stadia compared with the *Premier League*, *Bundesliga* and *La Liga*. This has led Italy to have the lowest attendance per match compared with these same leagues.

³ The Big-5 leagues are: *La Liga* (Spain); *Serie A* (Italy); *Premier League* (England); *Bundesliga* (Germany); *Ligue 1* (France).

⁴ From 1990 to 2019, there were 369 transactions involving football clubs (either a partial or full sale) in the Big-5 leagues, meaning an average of 12 deals took place each year. 233 transactions (almost two-thirds) involved clubs in England's *Premier League* (122 deals, 33%) and Italy's *Serie A* (111 deals, 30%), indicating a high number of investment opportunities and investor interest in these two leagues. Transactions in Spain's *La Liga* and France's *Ligue 1* were less active, accounting for 61 and 62 transactions respectively (17% each).

Recent History of Italian Football

As professionals with expertise in M&A transactions, including in the sports industry, the authors tried to better understand the reasons underlying the unexpected and somehow counterintuitive interest in Italian football, starting with a look at the recent history of Italian football.

Right after the incredible success of the nineties and first years of the millennium (*Serie A* had many of the top players in the world and an international audience), *Serie A* faced its worst crisis ever in 2006 - the infamous *Calciopoli* scandal. During the 15 years following *Calciopoli*, *Serie A* became a second-tier league, while the *Premier League*, the *Bundesliga*, *La Liga* and even the *Ligue 1* were booming.

The reasons behind such decline of Italian football are quite complex, but most of them can be linked to the way *Serie A* and Italian clubs were managed, namely, without any common view or development strategy or entrepreneurial approach.

Leading up to the COVID-19 pandemic, many *Serie A* (and *Serie B*) clubs were barely sustainable and were playing in a poorly managed league. Accordingly, the few foreign investors exploring opportunities in *Serie A* were more focused on the fame derived from the ownership of a football club rather than the economic aspects. Then the pandemic hit, further lowering stadium revenues and decreasing the overall value of the *Calcio* product. Sponsors started asking for fee reductions or to terminate sponsorship agreements and media companies started renegotiating TV rights deals. This caused a sharp decrease in club revenues and opened the doors for projects like the so-called *Superleague*, which would have devastated all clubs not involved in it.

So: what's left after this *perfect storm*?

As we said, the answer is quite counterintuitive since such a series of events ended up presenting various opportunities which have attracted the attention of foreign investors' (including many of the world's most important investment funds). Foreign investors see *Serie A* as one of the most undervalued sports leagues in the world, with huge growth prospects and unexploited revenue streams. Further, they understand that many single clubs are distressed assets that can be purchased at low prices (compared, for example, to the price tag of sports franchises in the USA) and present an excellent opportunity for outsized returns on investment, in addition to the already mentioned local and international fame synonymous with the ownership of sports clubs.

M&A Transactions Involving Italian Football Clubs

Before starting this analysis, it should be noted that Italian Law provides special provisions relating to the legal form of professional football clubs. In particular, pursuant to Article 10 of [Law no. 91 of 23 March 1991](#), a football club may register in its roster professional football players "only if it is incorporated in the form of joint-stock companies (*società per azioni* or *S.p.A.*) or limited liability companies (*società a responsabilità limitata* or *S.r.l.*)."

Thus, when navigating the Italian football industry, investors should always focus on the fact that professional football clubs are capital companies (*società di capitali*) under Italian Law, which are therefore subject both to the Italian legal regime in force for companies and to the sports system, which is parallel to and autonomous from the ordinary legal system.⁵

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The main feature differentiating Italian football clubs from other civil law companies is the "*titolo sportivo*". The "*titolo sportivo*" or, in English, "*sports title*", is the recognition of an Italian football club by the Italian Football Association (FIGC) for meeting certain legal, economic/financial, infrastructural and sport/related organizational conditions that allow the club to participate in the relevant championship (*Serie A*, *Serie B* or *Lega Pro*). The sports title acts as a sort of license or authorization that the FIGC assigns to a club and it is a unique element of the sporting order.

The above-mentioned requirements for the sports title are established by the "[Sistema Licenze Nazionali](#)" (National Licensing System).⁶ A club's compliance with these requirements is checked annually by the *Commissione di Vigilanza sulle Società di Calcio Professionistiche* (CoViSoC).⁷

⁵ Art. 16, par. 1, d.lgs. 23 July 1999, no. 242: "*Statutes of National Sports Federations and Associated Sports Disciplines*" states that "*National sports federations and Associated Sports Disciplines are governed by statutory and regulatory rules on the basis of the principle of internal democracy, the principle of participation in sports activities by anyone on equal terms and in harmony with the national and international sports order.*"

⁶ Each year, each league issues its own National Licensing System with its own requirements.

⁷ The CoViSoC is an internal body of the FIGC, established by Article 78 of the NOIF, composed of a president and four members. The CoViSoC is responsible for monitoring football clubs and has consultative and proposal powers. Prior to the start of each football season, each club must submit documentation to CoViSoC proving that they have fulfilled the requirements set by the National Licensing System.

In order to prevent the manipulation of the sports title, the FIGC enacted special provisions regulating all transactions that may involve Italian professional football clubs and which may have an impact on the relevant sport titles.

First of all, under Italian sports law, a club cannot transfer its sports title as a distinctive asset along with its other assets. The *rationale* of such a rule is as follows: the sports title, since it is a recognition by the FIGC (and not a true license), cannot be considered owned by professional clubs as their own asset and cannot, for that reason, be subject to the private law on the circulation of assets.⁸

FIGC Regulations focus on all M&A transactions that may indirectly affect the “*titolo sportivo*” of the target club involved, requiring parties to provide particular notifications and/or granting certain national football authorities with veto powers on the conclusion of the relevant transaction.

All the above said, the authors will thus provide the reader with an overview of the classic extraordinary transaction in Italian football, focusing on the features of the Italian football market and its regulatory framework.

Acquisitions

Generally speaking, investment transactions in any industry follow similar paths. Those relating to football clubs have different and additional peculiarities - navigating them effectively could be the difference between a successful deal and a problematic one.

Acquisition consists of different phases, typically starting with initial informal contacts between the parties, followed by a non-disclosure agreement and letter of intent, then due diligence and negotiations of the final agreements and, finally, the completion of the transaction (the closing). Sometimes, there is also a post-closing phase, which could either be physiological (*i.e.* where the agreements include post-closing undertakings or when the seller maintains a

minority stake in the target) or pathological (*i.e.* in case of claims relating to the breach of a party’s representations and warranties).

One of the most important phases is due diligence. During the due diligence process, the acquirer should identify items that may lead to future issues (without entering into details, some examples include: pending litigations, the club’s agreements with agents which may have unusual terms or sponsorship agreements with unreliable sponsors that may turn into uncollectable receivables), using tailored due diligence checklists.

Once potential issues are identified, protections are included in the final agreements (typically the “*Sale and Purchase Agreement*”), which are generally the representations and warranties and the subsequent indemnification obligations of the seller. These provisions are aimed at lowering the risks that may arise from potential issues identified in the due diligence. For example, if the seller’s financial stability is doubtful, requesting the issuance of guarantees or other kinds of monetary protections like escrow payments, cover the potential liabilities of the buyer.

When applied to transactions in the sports industry, this path has to be tailored to take into account the legal framework applicable to the sports industry’s stakeholders (similar to other regulated businesses), as well as the peculiarities of the sports business. An obvious but additional layer of complexity relates to the fact that each country has its own laws. Italian football clubs are, as already said, companies whose business activity is also regulated by civil law.

Therefore, in acquisitions involving professional football clubs, the applicable sports regulations will have to be taken into account together with such civil law provisions. Of particular importance is the FIGC’s [Internal Organizational Rules](#) (NOIF), which regulate and governs the organization of the FIGC, its affiliated clubs, players, coaches, technical staff and direct stakeholders, as well as the leagues’ statutes which contain rules dedicated to the relationship of clubs/leagues.

It is well-known that many of the transactions relating to Italian football clubs carried out in recent years were structured as multi-jurisdiction deals, where the target company and the parent companies (almost always special purpose vehicles, purportedly created for the deal) were located in different countries. This could be due to many reasons, ranging from the country of origin of the investor(s) (for various reasons, it may be easier for a foreign investor to utilize a non-Italian vehicle to purchase the shares of an Italian football

⁸ This restriction is provided for in Article 52, par. 2, of the NOIF. There are special situations in which the FIGC itself can authorize the transfer of the sports title and therefore allow the sports title to be included among the other capital assets being purchased in a transaction (such as: (i) the bankruptcy of a football club, or (ii) the non-admission of a football club to the relevant championship due to failing to meet National Licensing System requirements). Normally, in the case of a bankruptcy of a professional football club, an attempt is made to guarantee provisional exercise because only a club in provisional exercise, according to Article 16 NOIF, can continue in the relevant championship. In addition, provisional exercise allows for the realization of better results on an economic level and also ensures the continuity of the bankrupt’s sporting activity in view of a possible business transfer.

club) to the specific needs relating to features of the deal which require utilizing a certain structure, e.g. the enforcement of a pledge is far easier outside of Italy; hence, if the deal is based on funding arrangements secured by a pledge, the smartest solution could be to locate the pledged entity in a country where the pledge could be easily enforced.

Based on the authors' experience, the first question foreign investors have when evaluating a potential acquisition of an Italian football club is whether such transaction must be preliminarily authorized by any public or sports authority. Unlike other countries (and unlike other extraordinary transactions - see below), no preliminary authorization is required under Italian laws, nor under the FIGC or the league's statutes (*Serie A*, *Serie B*, *Lega Pro*), since the only legal requirements for a foreign owner relate to the compliance with specific KYC (*Know Your Customer*) and AML (*Anti-Money Laundering*) provisions, whose compliance with which has to be realized following the completion of the transaction.

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Another essential item to be considered relates to the rules governing the licenses for a football club to participate in the Italian and UEFA competitions. The Italian licensing system has several peculiarities, mostly related to the compliance of football clubs with certain financial parameters (including, for example, the payment of the football players' salaries and taxes), which are monitored by the CoViSoc and other requirements, such as those stipulated by the UEFA license for Italian clubs to participate to European competitions.⁹ Compliance with such requirements is essential since any violation could result in sanctions or, in case of extremely severe violations, ranking points deductions or even disaffiliation.

From this brief summary of potential issues, it is clear that the role of legal advisors is pivotal in minimizing the legal risks relating to a potential investment in a football club. Asking the right questions from the very beginning of negotiations and knowing the best way to structure a deal can save time and money.

⁹ With reference to checks and controls carried out by CoViSoc, see Art. 85 NOIF - '*Periodic disclosure to Co.Vi.So.C.*' - and Art. 87 NOIF - '*Inspections and audits.*'

The KYC Process

Once an acquisition is completed, the buyer must face layers of the (unfortunately) well-known Italian bureaucracy in order to comply with the various football regulations, which may be very challenging.

In order to demonstrate to the FIGC that a buyer meets certain integrity requirements and is financially sound, the buyer must provide information to an *ad hoc* commission called "*Commissione Acquisizioni Partecipazioni Societarie*" (CoAPS)¹⁰ within 15 days from the acquisition (per Article 20bis of the NOIF). In particular, the buyer should submit (i) documents evidencing the acquisition and useful for identifying the buyers;¹¹ (ii) official documents proving that the buyer has not been charged for crimes and is not a defendant in any criminal proceedings; and (iii) a bank reference letter certifying that the buyer has ordinary dealings with the bank and certifying its creditworthiness in relation to the professional or business activity carried out by it. Such controls were implemented for transparency reasons and to ensure the acquisition of a club does not hide criminal interests or allow persons without adequate financial resources to enter the football system, both of which could damage the club and its stakeholders as well as jeopardize the relevant championship.

In the event of any irregularity or deficiency in the documentation submitted, the CoAPS may ask for further documentation to be provided within a non-extendable 15-day deadline. In case of non-compliance with this deadline, the CoAPS may issue sanctions, including fines, penalties of one or more points in the standings and the obligation for the buyer to sell the purchased club, pursuant to Article 32, from par. 5 to par. 5-novies, of the FIGC Code of Sports Justice (CSJ).¹²

Furthermore, it should be noted that the NOIF provides periodic checks and controls, which Italian clubs are subjected to each year by CoViSoc. The controls concern the balance sheets of clubs, fulfillment of fiscal obligations and payment of players' or employees' salaries and their aim is to guarantee that each club participating in professional Italian football leagues is compliant.¹³

¹⁰ The Co.A.P.S. (literally the *Commission for the Acquisition of Shares*) is a commission composed of seven experts of law and/or finance, appointed by the Federal President, after obtaining the opinion of Professional Leagues' Presidents.

¹¹ It should be noted that if the buyer is a company the abovementioned integrity requirement should be fulfilled by its legal representative as well as by the people who have control of the entity and by the ultimate beneficial owner. In the event of a buyer group composed of companies of different nationalities, it may be challenging to satisfy all the integrity requirements.

¹² See Art. 32 CSJ - '*Duties and prohibitions on registrations, transactions, transfers, and companies' checks.*'

¹³ Failure to comply with CoViSoc requests or failure to fulfill certain requirements can result in CoViSoc issuing sanctions provided by Article 32, from par. 5 to par. 5-novies, of the CSJ.

Other Kinds of M&A Transactions Involving Italian Clubs

In addition to acquisitions, Italian clubs can complete other extraordinary corporate transactions such as mergers, demergers and transfers of business. To this end, the NOIF¹⁴ provides some protection requirements that pertain to the continuity of the football club and the transferability of its sports title.

Prior to completing an extraordinary corporate transaction, the parties must receive the approval of the President of the FIGC, which “*is a condition for the effectiveness of the merger, demerger or business transfer.*”¹⁵ The procedure and required documentation may be modified depending on the type of transaction the club is looking to complete and, therefore, the requirements may be subject to change.

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Once the application for authorization has been filed, the FIGC’s internal preliminary phase begins. The FIGC President may grant its approval only after receiving the opinion of (i) the relevant league, (ii) CoViSoc; and (iii) an *ad hoc* commission composed of the elected Vice Presidents, the Presidents of the three leagues and the Associations of Technical Components or their representatives, the majority of which must vote in favor of the transaction. If such authorization is granted, based on the provisions of Articles 52 and 20 of the NOIF, in the case of a merger, the new company resulting from the merger, or the surviving entity, is attributed the sports title and the seniority of affiliation¹⁶ of the company that was affiliated first.

In the case of a demerger, the rules are intended to prevent such a transaction from causing a multiplication of the “*titolo sportivo*”. Therefore, only the entity to which the entire sports business is transferred remains affiliated with the FIGC and the “*titolo sportivo*” and seniority of affiliation are attributed only to such entity. Given this, such a transaction is typically unattractive since the remaining companies created from the demerger that

do not hold the sport’s title will be substantially inactive.¹⁷ The only quality that cannot be assigned to all the entities resulting from the split, even in the amateur sphere, is the seniority of affiliation, which remains with the existing company (in the case of a partial split) or passes to one sole beneficiary (in the case of a total split where the existing company no longer exists).

Finally, in the case of a capital contribution of a football business by an entity to a wholly-owned subsidiary, only the company to which the entirety of the football business is transferred will be affiliated with the FIGC and receive the “*titolo sportivo*” and the seniority of affiliation.

M&A Transactions and Multiple-Ownership of Clubs

A further element to take into account before proceeding with investing in Italian football is whether the same parent company already owns a club or shares of a club affiliated with the Italian Football Association.

At the international level, Article 20, paragraph 2 of the [FIFA Statutes](#) (2022) stipulates that the affiliated federation (e.g. FIGC with respect to Italian football) must ensure that neither a natural person nor a legal entity (including holding companies and companies controlled by them) exercises, in any way, control over more than one club, whenever the integrity of a match or competition may be compromised.¹⁸

From a European point of view, UEFA provides that its member associations must respect the principles prohibiting multi-ownerships at the national level and establish an appropriate licensing system to be issued to clubs in order to participate in European competitions.¹⁹

In Italy, multi-ownerships occur if a natural or legal person (including holding companies or subsidiaries) exercises control or influence over more than one of the clubs affiliated to the same federation whenever the integrity of a match or competition may be affected.

¹⁴ See Art. 20 NOIF – ‘Mergers - Demergers - Business Transfers’.

¹⁵ The approval of the FIGC President is obtained by submitting a special application, provided by the administrative body of each of the companies concerned, accompanied by the following documentation: certified copies of the minutes of the assemblies and of any other body of the company required to approve the transaction; the plans or deeds of merger, demerger or transfer of company with expert reports, if applicable; the deed of incorporation and the bylaws of the company that is to continue the football activity following the merger, demerger or transfer; the list of names of the members of the governing bodies; and “*any other deed that is required by the federal bodies*” (Art. 20, par. 3 NOIF).

¹⁶ The seniority of affiliation indicates the period of time a club has been registered to FIGC.

¹⁷ The only exception is in the amateur sphere where demergers take place for the purpose of allowing the separation of different segments of football activity, such as men’s football, women’s football and five-a-side football. In this case, the “*titolo sportivo*” is split into each individual branch/company, however, only one company retains the seniority of affiliation.

¹⁸ See S. LA PORTA, L. PRIMICERIO, ‘Clubs Multiple Ownership in Italian Football - The *Salernitana’s Case*’, *Football Legal* # 16 (December 2021), p. 204 ; P. LUCA, ‘Third Party Ownership and Multi-Club Ownership: where football is heading for’, *Rivista di Diritto ed Economia dello Sport*, vol. XIV, Fasc. 1, 2018; and S. DEMEULEMEESTER, ‘Restrictions on (Multiple) Club Ownership in European Football: An EU Law Perspective’, *Football Legal* # 14 (December 2020), p. 86.

¹⁹ The aim of UEFA is to prevent all methods or practices that could jeopardize the fairness of matches or competitions or give rise to the abuse of football. When two different clubs with the same owner participate in the same competition, it threatens the integrity of the game and can have a negative effect on public perception.

In particular, Article 16bis of the NOIF²⁰ provides that it is prohibited to own or control two professional clubs, even if they take part in two different professional leagues, by the same person or by two relatives within the fourth degree. As a consequence, whenever an amateur club owned by a person who also has control of a professional club (or by one of their relatives within the fourth degree) acquires professional status, the owner of the two clubs must end this situation at least five days before the deadline set by the federal rules for filing the application for admission to the relevant professional championship. The aim of this rule which changed recently is to avoid situations that may compromise the integrity not only of one league but of the whole Italian sports system.

²⁰ See Article 16bis of the NOIF - '*Corporate shareholdings*'.