



•ALERT•

9 DECEMBER 2022

Golden Power: the Isab-Priolo decree came into force

**The Council of Ministers approved a law decree
"to protect the national interest in strategic production
sectors"**

Law Decree No. 187 of December 5, 2022 (the "Isab-Priolo Decree"), concerning urgent measures aimed at protecting national interests in the strategic energy production sectors, has been published in the Official Gazette of the Italian Republic. The Isab-Priolo Decree came into force on December 6, 2022.

Providing for specific measures in the sector of hydrocarbon refining, the Isab-Priolo Decree offers a range of measures that, in light of the emergency nature of the current energy crisis, are aimed at protecting the safety and continuity of supplies as well as the maintenance of the operation of networks and facilities.

Outside of the emergency context referred to energy, the Italian Council of Ministers – unexpectedly – also provided for certain measures related to the exercise of its special powers of intervention in the context of Foreign Direct Investments in Italy pursuant to Law Decree No. 21 of March 15, 2012 (the "Golden Power Legislation"), introducing a number of Government's powers which are of great interest for those companies operating in strategic sectors (not only the energy sector).

More specifically, Article 2 of the Isab-Priolo Decree provides that "after exercise of the Government's special powers of intervention ¹", the Italian Ministry of Enterprises and Made in Italy (the "MEMI") "shall assess, upon request of the notifying company, the existence of the prerequisites for



access to measures aimed at supporting the company's capitalisation aimed at enabling strengthening of its assets, for purposes of granting prioritised access to the Fund for the safeguarding of employment levels and the continuation of business activity".

Moreover the MEMI, together with the Italian Ministry of Economy and Finance (the "MEF"), will be able to ask, upon request of the notifying company, "for a prioritised assessment as to the existence of the prerequisites to access the measures provided by dedicated assets", thus offering a privileged channel to those companies operating in strategic sectors – which have been subject to the Government's special powers of intervention under the Golden Power Legislation – enabling them to access the measures provided for by Law Decree No. 34 of May 19, 2020 (the so-called "Rilancio Decree"), managed by *Cassa Depositi e Prestiti* to support the capital strengthening of major Italian companies.

But that's not all. The Isab-Priolo Decree provides that, in the two years following the exercise of the Government's special powers of intervention under the Golden Power Legislation, the notifying company may also request "prioritised access to development contracts and innovation agreements".

However, at present, the criteria on the basis of which the MEMI and the MEF will carry out the aforementioned assessments have not been disclosed yet: in fact, the Isab-Priolo Decree requires the MEMI – together with the MEF –

to define the “*general criteria for carrying out the assessments referred to in the preceding paragraphs, as well as the terms and procedural methods for access to support measures*” with a decree to be adopted within 30 days from the entry into force of the conversion law of the Isab-Priolo Decree.

Therefore, we will have to wait for the conversion law and the MEMI decree to better identify the scope of the emergency legislation just enacted, assuming that the Parliamentary debate will not lead to substantial changes in the contents of such legislation.

We will publish a further alert as soon as the legislation is implemented following its conversion into law.

¹The wording of the provision seems to limit its scope of application to those companies that, following notification and preliminary investigation under the Golden Power Legislation, have been subject to, or have been affected by, opposition/veto or at least prescriptions/conditions by the Government, aimed at ensuring protection of the public interests safeguarded by the Golden Power Legislation.

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