



New Equity Disclosure Rules for Italian Listed Companies

On November 25, 2015 and on May 30, 2016, the Italian securities market regulator, *Commissione Nazionale per le Società e la Borsa* (“CONSOB”), announced certain amendments to CONSOB Regulation No. 11971 of May 14, 1999, related to the regulatory framework applicable to issuers of market-traded securities (“Issuers’ Regulation”). These amendments are intended to comply with the provisions of Legislative Decree No. 25 of February 15, 2016, which implemented Directive 2013/50/EU amending Directive 2004/109/EC regarding

transparency requirements for issuers (“Transparency Directive”).

Preexisting Italian Equity Holding Disclosure Rules

The equity holding disclosure rules for investors in Italian listed companies who exceed or fall below any of the applicable thresholds in effect before these recent changes can be simplified and summarized as follows:

| Italian Equity Holding Disclosure Duties (percentages of issuer’s outstanding voting shares) | | |
|---|--|--|
| | Types of Equity Holdings | Disclosure Thresholds |
| 1. | “Actual Holdings” (voting shares and/or voting rights held) | 2%,* 5%, 10%, 15%, 20%, 25%, 30%, 50%, 66.6%, 90%, 95% |
| 2. | “Potential Holdings” (convertible securities, warrants, and physically settled equity derivatives) | 5%, 10%, 15%, 20%, 25%, 30%, 50%, 75% |
| 3. | “Overall Long Position” (Actual Holdings plus Potential Holdings <i>plus</i> cash-settled equity derivatives) | 10%, 20%, 30%, 50% |

* 2% threshold applies only to Italian Large Caps

Consequently, the equity holding disclosure rules applicable to Italian listed companies with revenues of €300 million, or more or a market cap of €500 million or more ("Italian Large Caps"), differ slightly from those applicable to Italian-listed small and mid caps with revenues of less than €300 million, or a market cap of less than €500 million ("Italian SMCs"). The difference is only relevant in connection with the first type of disclosure (Actual Holdings), in which the lowest disclosure threshold applicable to Italian SMCs is 5 percent instead of the 2 percent threshold applicable to Italian Large Caps.

Main Changes to Italian Equity Disclosure Rules

The new provisions of the Issuers' Regulation, as noted by CONSOB, are aimed at increasing transparency in the ownership structure of Italian listed companies, mainly through a reorganization and simplification of the equity holding disclosure duties applicable to investors in Italian listed companies.

Particularly, the main changes to the equity holding disclosure rules set forth in the Issuers' Regulation include, *inter alia*, the following:

- While the notion of Actual Holdings (i.e., voting shares owned, irrespective of who can exercise their voting rights, or voting rights held) has not been amended, the minimum threshold requiring disclosure of Actual Holdings in Italian Large Caps has been increased from 2 percent to 3 percent.
- In order to implement the amendments made by Article 1(9) of Directive 2013/50/EU to Article 13 of the Transparency Directive, CONSOB has:
 - (i) introduced a new definition of "Equity Investment in Financial Instruments," which now aggregates both the Potential Holdings and the so-called "other long positions" (i.e., essentially cash-settled equity derivatives); and
 - (ii) required that disclosures of Equity Investments in Financial Instruments include a breakdown of the types of financial instruments held, distinguishing between those granting the right to a physical settlement and those granting the right to a cash settlement.
- In addition, CONSOB has:
 - (i) introduced a new definition of "Aggregate Equity Investment," replacing the previous definition of "Overall Long Position," which comprises Actual Holdings and Equity Investment in Financial Instruments; such amendment will *de facto* require that cash-settled equity derivatives be disclosed starting from a 5 percent threshold instead of the current 10 percent threshold applicable to the Overall Long Position; and
 - (ii) required that the Aggregate Equity Investment be disclosed starting from a 5 percent threshold (thereby lowering the previous 10 percent minimum threshold for disclosure of the Overall Long Position); such amendment will require the disclosure of certain equity holdings that would not have been otherwise disclosed according to the previous rules.
- In order to harmonize the disclosure duties relating to Actual Holdings and Potential Holdings, the 75 percent threshold previously applicable for Potential Holdings has been replaced by the same 66.6 percent threshold that applies to Actual Holdings.
- The 95 percent threshold that used to apply to Actual Holdings has been removed.
- The deadline for notifying applicable equity holding disclosures has been reduced from five to four trading days.
- The new regulatory framework has also introduced certain amendments to disclosure duties related to securities lending transactions: following a securities lending transaction, the lender must now disclose both a reduction in its Actual Holdings equal to the number of securities lent and a corresponding increase in its Equity Investment in Financial Instruments.

New Italian Equity Holding Disclosure Rules

In light of these recent changes, the new equity holding disclosure duties applicable to investors in Italian listed companies who exceed or fall below any of the applicable thresholds can be simplified and summarized as follows:

| Italian Equity Holding Disclosure Duties (percentages of issuer's outstanding voting shares) | | |
|---|--|--|
| | Types of Equity Holdings | Disclosure Thresholds |
| 1. | "Actual Holdings" (voting shares and/or voting rights held) | 3%, * 5%, 10%, 15%, 20%, 25%, 30%, 50%, 66.6%, 90% |
| 2. | "Equity Investment in Financial Instruments" (convertible securities, warrants, physically settled equity derivatives, and cash-settled equity derivatives) | 5%, 10%, 15%, 20%, 25%, 30%, 50%, 66.6% |
| 3. | "Aggregate Equity Investment" (Actual Holdings plus Equity Investment in Financial Instruments) | 5%, 10%, 20%, 30%, 50% |

* 3% threshold applies only to Italian Large Caps

Effective Date and Notification Requirement

The amendments to the Issuers' Regulation described in this Commentary and introduced by CONSOB with Resolution no. 19614 of May 26, 2016 came into effect on July 1, 2016.

As a result of the new regulatory framework, investors who already have an Actual Holding, an Equity Investment in Financial Instruments, or an Aggregate Equity Investment in an Italian listed company as of the effective date of the new rules may be subject to a one-time disclosure duty, even in the absence of changes in their equity holdings, which must be complied with by August 31, 2016.

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