NPL INSIGHT: European banks with foothold in Italy seek widening of GACS remit.

CapitalStructure

The Italian government's decision this week to renew the Garanzia sulla Cartolarizzazione delle Sofferenze (GACS) will result in the guarantee being extended for two, possibly three years. But several European banks with a presence in Italy are questioning if access to the scheme should be expanded past its current remit of solely Italian banks and financial institutions, particularly given its more permanent status.

Following a proposal by Gaetano Lattanzi, head of legal at BHW Italy, several banks are asking why, despite operating in Italy through branches, they have not been granted access to the GACS scheme, especially now that it no longer appears to be an emergency measure but rather seems to have consolidated into a permanent legal framework for Italian NPLs.

Since its original inception in June 2016 as a temporary scheme to support Italian bank efforts to offload NPLs, the GACS guarantee has previously required six-monthly renewals due to restrictions on state aid. With the new scheme this is not the case.

A legal analysis commissioned by BHW to Italian Legal Services and Andrea Biondi, professor of competition law at King's College London, indicates the approach followed by the European Commission in respect of GACS has deviated from precedents in which non-domestic banks operating in the country were entitled to access the scheme (i.e. the 2008 Irish government bank guarantee scheme and the 2008 Italian government bank guarantee scheme).

The matter is expected to be discussed with representatives of the Italian government in April during a meeting of the governing council of AIBE, the association of foreign banks operating in Italy.

The European Commission is understood to be supportive of the idea of a widening of the scope of GACS to other European banks.

Last year over €45bn GBV was securitised via 14 GACS-compliant securitisations. Two GACS-compliant transactions for a total of c.€8.4bn GBV have been completed so far in 2019 prior to the expiry of the previous GACS iteration on 6 March: Banca Nazionale del Lavoro's Juno 2 and Banco BPM's Leviticus SPV.

As anticipated, the new guarantee contains some key changes to the original documentation. This includes the mandatory replacement of a servicer should collections be less than 100% of the rating agency recovery assumptions for two consecutive interest payment dates. Meanwhile, interest on mezzanine securities will be deferred to senior notes if the ratio between the accumulated net receipts and the net receipts expected by the rating agency's recovery plan is less than 90%.

The rating for tranches seeking the guarantee has also been capped at Triple B. Under the previous scheme, deals with a minimum rating of Triple B minus (or equivalent) were eligible for the GACS.

The decree that was passed in Italian parliament this week is expected to be converted into law within a couple of months