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NO-DEAL BREXIT - ITALY WOULD CONTINUE TO TAX THE UK AS AN EU MEMBER FOR 18 MONTHS

On 20 March 2019, the Italian Government approved a Law Decree (the "**Decree**") containing transitional measures aimed at preventing adverse effects on the stability of the financial markets in the case of a hard Brexit scenario, including significant transitional tax measures.

The Decree is awaiting publication to become final. This summary is based on the draft of the Decree available as of 25 March 2019.

Transitional tax provisions and impacts on UK entities

The draft of the Decree sets out an 18-month transitional period starting from the date of the exit of the United Kingdom from the EU in the absence of a specific agreement reached with the European Council.

During the transitional period, Italian tax provisions based on EU membership, including those deriving from the implementation of EU tax Directives, **will continue to apply to the United Kingdom**. The same will apply, as far as compatible, for VAT and excise duties provisions deriving from EU Directives and Regulations.

This means that qualifying UK entities would in principle continue to benefit from:

- withholding tax exemption provided under domestic law on interest payments under medium/long-term loans granted to Italian enterprises;
- 0.25% substitute tax regime on medium/long-term loans granted to Italian enterprises (in lieu of stamp taxes ordinarily applicable);
- withholding tax exemption regimes granted by EU Directives on dividend, interest and royalty payments made by Italian entities;
- reduced 1.2% withholding tax (in lieu of the 26% ordinary rate) on profit distributions by Italian entities, in case the conditions for the application of the full exemption regime under the Parent Subsidiary Directive are not met;
- tax neutrality, for corporate income tax purposes, of cross-border M&A transactions.

Terms and procedures for the implementation of the transitional tax provisions introduced by the Decree will be set out by one or more Decrees to be issued by the Italian Ministry of Economy and Finance.

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