**Redress orders under Italian Consolidated Banking Law – MEMO**

According to the Italian Consolidated Banking Law (legislative decree no. 385/1993), the Bank of Italy oversees the disclosure and the fairness in the relations among banks/other financial intermediaries and their respective customers.

Art. 128-ter of the Italian Consolidated Banking Law, entered into force in 2010, provides that the Bank of Italy:

* can hinder banks and other financial intermediaries from keeping going with the violations noticed in its control activity related to disclosure and fairness in the relationship among regulated entities and their respective customers;
* can order regulated entities to redress customers for sums unduly paid (from here on: “orders to redress”); and
* can intimate any further measures required.

An order to redress is issued when following the controls performed by the Bank of Italy – as the Italian Authority responsible for the disclosure and the fairness in the relations among banks/other financial intermediaries and their respective customers – violations emerge that impinge on the customer protection legal framework (art. 117 et seq. of the Italian Consolidated Banking Law and related regulation issued by the Bank of Italy).

The Bank of Italy can publish on its website any orders issued under art. 128-ter of the Italian Consolidated Banking Law – including the order to redress –and may mandate any further publicity needed (e.g. on newspapers).

Pursuant the law the Bank of Italy is not mandated to define in detail neither the customers to be redressed, nor the amounts to be precisely disgorged to each of them. However, the orders issued so far by the Bank of Italy included a duty for the regulated entity involved to identify in detail the customers to be redressed and the sums to be refunded, and to provide the Bank of Italy with updates on the execution of the order.

Should the regulated entity fail to comply with the order, the Bank of Italy may impose a fine. It is worth noting that the law does not specify whether the customers may sue the regulated entity for being restored *solely* on the basis of the “order to redress”.

Since 2012, the Bank of Italy has initiated 7 proceedings pursuant to art. 128-ter of the Italian Consolidated Banking Law, addressed to 7 different regulated entities.

In 4 cases, the proceedings had been filed before the issuance of an order to redress because the regulated entity involved promptly refunded their customers, or consented to provide the Bank of Italy with detailed information about their initiatives. It is worth noting that in those cases customers have been granted refunds for a total amount of € 692,345.67.

In 2014, the Bank of Italy has issued no. 2 redress orders concerning mistakes in the calculation of interest, for a total amount of € 118,506,000.

It is worth noting that the Bank of Italy, when discharging its supervisory duties under the Italian Consolidated Banking Law, usually asks regulated entities to adopt initiatives in order to refund customers for sums unduly paid, even without initiating a proceeding pursuant to art. 128-ter of our Consolidated Banking Law. In 2015, refunds stemming from informal requests by the Bank of Italy summed up to about € 65,000,000.