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A 2020 GUIDE TO TOURISM-REAL ESTATE INVESTMENTS IN ITALY

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A 2020 GUIDE TO TOURISM-REAL ESTATE INVESTMENTS IN ITALY

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Ministry of Foreign Affairs
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Edited by

Introduction by Luigi Di Maio, Afterword by Paolo Crisafi - Contributions by Massimo Cimatti, Marco Mari, Ernst & Young - Coordinated by Francesco Capitta

Introduction

By the
Minister of Foreign Affairs and International Cooperation Luigi Di Maio

It is a pleasure to have, with this Guide, sponsored by the Ministry of Foreign Affairs and International Cooperation, promoted by the Mipim World Real Estate Fair, by Enit - National Tourism Agency and by the Fondazione Patrimonio Comune - Anci, elaborated with the scientific coordination of Re Mind, an overview and a source of valuable information on one of the central themes for the Italian tourism economy: the real estate market.

Italy is one of the most important and sought after destinations by foreign real estate investors, and one of the themes to which the Ministry that I have the honor of guiding will devote more and more are the policies and strategies that can make real estate investments in Italy increasingly competitive and attractive.

The real estate industry represents a real strategic asset not only for the tourism economy, but for the whole country system and this Guide is a valuable tool for finding your way around the complex world of real estate investments in Italy. We cannot hide the fact that the difficulty that our country is experiencing in this moment of crisis, not only in Italy but globally, will have an impact on the whole country system for many months to come, and the real estate industry is no exception. And it is for this reason that this Guide, as well as any tool designed and created to give value, is even more necessary and appreciated at this stage.

Foreword

by
Paolo Crisafi President of Re Mind

In the last twenty years the Italian real estate market has undergone a profound transformation. The real estate industry of the new millennium has combined the physiological pursuit of economic return with environmental and sustainability needs, favoring the development of the urban fabric with the consequent positive effects for society. From social housing to hotel, from tourist real estate to student residences, the real estate industry is changing the face of the country with cutting-edge structures and positive impacts for all sectors.

All this has made Italy one of the main investment destinations for large foreign institutional investors and over the years there has been a progressive change in the regulatory environment in order to offer a range of forms of investment in line with the main foreign economies.

Without claims of exhaustiveness, for information purposes, this guide aims to provide an overview of the main tools available in Italy for real estate investments and large tourist-hotel complexes.
Given the relevance in the valuations of opportunities for real estate investments, together with the essential aspects of the various instruments, the guide illustrates the relative tax reatment both for the instruments themselves and for the investors.

The most used tool is undoubtedly represented by real estate funds.With legislation that is now well-established, real estate funds are characterized by a favorable tax regime, with particular regard to foreign investors. Next to real estate funds and with the same tax treatment, Real estate SICAFs have been introduced more recently to meet the governance needs of certain non-resident investors. Another instrument of real estate investment of great importance in the Italian panorama is that of the SIIQ, which is aimed at investors interested in the returns of the property rental business.

In addition to the tools specifically designed for real estate investments, it also seemed appropriate to devote space to joint stock companies that invest in real estate in order to outline the main distinctive features.In addition, the most recently introduced tool that still needs to be fully appreciated by the market is that of real estate securitization transactions, which makes it possible to securitize the flows of real estate rents. This investment method also presents a tax regime of particular convenience for foreign investors.

A focus on the importance of economic, energy and environmental sustainability outlines how best to invest and in what ways. The sentiment of the real estate market was developed by Ernst & Young while the “Cultural Tourism Manifesto” was produced by Massimo Cimatti.

Until now, coronavirus has not been talked about so far, as an extraordinary phenomenon that has affected global health and economy in recent months and we are aware of it, but to get out of this state of difficulty you need to use professional levers, financial instruments and good practices that are present in this publication. Useful elements for foreign and national investors, for national and local public administrations, for operators in the real estate chain as a whole.

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Chapter I

Real estate investment funds

(Chapter I to V: by Francesco Capitta, Re Mind Filiera Immobiliare – Tax Area, Director)

I. Main features and functioning

Real estate investment funds are an important investment instrument in the Italian real estate market, with a value of real estate assets under management exceeding EUR 66 Billion in 2018.

Real estate investment funds represent a particular type of investment where the employment of financial resources, realised through the "collective" management, is entrusted by a plurality of investors to a qualified subject (the fund manager, società di gestione del risparmio, "SGR"). This allows to share with other investors the benefits deriving from the diversification of the investment portfolio, the fractioning of the financial risk and the partition of the fixed costs of the management activity.

Moreover, investors can benefit from the protection connected with the presence of a professional fund manager, both in terms of professionality and of rigorous regulatory controls and transparency requirements.

Closed-ended undertakings for the collective investment specialised exclusively in real estate

Real estate investment funds are undertakings for the collective investment specialised exclusively in real estate that, through the issue of transferable securities (the units), allow single investors to invest in real estate (so-called indirect investment).

In order for an investment fund to qualify as a real estate investment fund, the fund shall be invested, for not less than two thirds, in accordance with the limits and criteria established by the Bank of Italy, in real estate assets and rights (including rights from real estate leasing contracts and concessions), participations in real estate companies and in other real estate investment funds (foreign and domestic)[1]. The percentage is reduced to 51%, if the fund is invested, for not less than 20%, in financial securities issued in the context of securitisation transactions involving real estate assets and rights or credits secured by mortgage.

Real estate funds can be established only as closed-ended funds[2], meaning that the participants can redeem their units only at predetermined maturity dates.

1 Article 12, par. 2, of Ministerial Decree No. 30/2015.

2 Article 12, par. 1, of Ministerial Decree No. 30/2015.

Closed-ended funds have a predefined capital, which cannot vary in case of new subscriptions or redemptions and which is divided in a predetermined number of units. Units, therefore, can be subscribed, in case of availability, only during the phase of the offer (before the start of the activity of the fund) and the redemption can be made only at maturity. If the units are listed, it is always possible to buy and sell them on the market.

Real estate funds can be established by raising of funds which are then invested in real estate assets and rights d (so-called "ordinary" real estate fund) or by contribution of real estate assets and rights in exchange for fund units (so-called "contribution" real estate fund). The latter type can be private, public or mixed. Public "contribution" real estate funds are funds established by contributions, for more than 51%, of real estate assets and rights by the State, Regions, local administrative bodies, public consortia, public social security bodies and companies, directly or indirectly, entirely owned by the a forementioned persons.[3]

Investments funds can be "reserved" to qualified categories of investors with a recognised professional competence (so-called "professional investors"). Reserved funds can invest without being subject to the limits generally established under the prudential provisions of the Bank of Italy aimed at containing and spreading the risk. Therefore, reserved funds can partially derogate from the general requirement of the diversification of the investments, thus concentrating the risk mainly on particular investments. In order to avoid a dangerous circumvention of the rationale of the derogation, the units of reserved funds cannot be issued to, redeemed by and sold to investors that are not professional investors.

The fund as an autonomous pool of assets

Real investment funds are set up in the form of an autonomous pool of assets, divided into units, established and managed by a person (the fund manager), expressly authorised by the Bank of Italy[4], which the participants entrust with the resources and the assets of the fund in order to make investments in real estate assets and rights and/or participations in real estate companies. The investment relationship of the investors is regulated by the fund rules.

Real estate investment funds do not have legal personality. From a legal perspective, real estate investment funds are an autonomous pool of assets separate, to any effects, from that of the fund manager and of any other funds managed by the fund manager as well as from those of the investors. With regard to the obligations of the fund, the fund is liable with its own pool of assets and the creditors of the fund manager and/or the depositary bank do not have recourse with respect to the fund. In any case, the fund manager cannot use, for its own interest or for the interest of third parties, the assets of the real estate investment funds under management.[5]

Fund manager, depositary bank and independent expert

A fundamental role in the life of a fund is played by the fund manager, an authorized company subject to the regulatory supervision of the Bank of Italy[6], to which the investors give a mandate to manage the assets. The law reserves the service of managing collective investments to SGR, open-ended investment companies (società di investimento a capitale variabile, "SICAV") and closed-ended investment companies (società di investimento a capitale fisso, "SICAF")[7].

By provision of law, the fund manager cannot directly keep the custodial duty on financial instruments and cash amounts pertaining to the fund. Therefore, the fund manager is obliged to enter into an agreement to this

3 Art. 14-bis of Law No. 86/1994.

4 Art. 1, paragraph 1, lett. j), of Legislative Decree No. 58/1998 (Testo Unico della Finanza, "TUF").

5 Art. 36, paragraph 4, of TUF.

6 Art. 34 of TUF.

7 Art. 32-quater of TUF.

end with a bank (so-called "depositary bank")[8]. The depositary bank executes the instructions of the fund manager that are not contrary to the laws and the provisions of the regulatory supervision authority and assesses that the issuance and redemption of the fund units is legitimate and that the income of the fund is correctly distributed. The depositary bank also assesses the correctness of the calculation of the value of the units. The depositary bank is liable vis-à-vis the fund manager and the participants for any damages caused by the breach of its obligations.

A key role for the functioning of a fund is that of the independent expert, who is in charge of evaluating the real estate assets, rights and participations in non-listed real estate companies in which the fund invests. The independent experts are appointed by the board of directors of the fund manager among those entities having the requirements prescribed by the applicable legislation.

Fund rules

The rules regulating the functioning of the funds are contained in the fund rules, which, in general, after being approved by the management board of the fund manager, are approved by the Bank of Italy.[9] The fund rules, *inter alia*, identify the promoting company, the manager (if different from the promoting company) and the depositary bank, define and regulate the duties of these persons and the relationship between them and the participants in the fund.

With exclusive regard to the funds reserved to qualified investors, the approval of the fund rules by the Bank of Italy is not required.[10] The fund rules of the funds reserved to qualified investors are approved exclusively by the management board of the fund manager. The text of the fund rules, along with the related resolution of approval by the management board, is transmitted to the Bank of Italy.

The fund rules must have a minimum content and must be compliant with the principles provided by the Regulation of the Bank of Italy of 19 January 2015.

II. The tax treatment of real estate funds

1. Liability to tax

Real estate funds, as undertakings for the collective investment resident in Italy, are included among the persons subject to corporate income tax (imposta sul reddito delle società, "IRES")[11]. In this respect, the undertakings for the collective investment are considered resident in Italy if they are established in Italy.[12]
According to the Italian Revenue Agency, if an undertaking for the collective investment does not have the regulatory requirements prescribed to be qualified as such (i.e. collective management of a pool of assets, raised among a plurality of participants, managed autonomously from the participants), it is not entitled to the special tax regime for real estate investment funds and it would be subject to corporate income tax under standard

8 The requirements to be appointed as depositary bank and the modalities for depositing the assets of the fund are established by the Regulation of the Bank of Italy of 19 January 2015, Chapter VIII.

9 The fund rules are considered approved after three months from the receipt by the Bank of Italy of the request and all the necessary documentation (different terms are provided in case of fund rules drafted according to "recognised schemes" or "generally approved schemes"). The term is interrupted if the documentation is lacking or incomplete. Upon receipt of the documentation apt at removing the causes of interruption, a new term starts running. The term is suspended in case the Bank of Italy makes a request of clarifications. The term restarts running when the Bank of Italy receives the documentation apt at removing the causes of suspension.
In any case, the fund rules can be deposited to be examined by the regulatory supervision authority before the fund manager has obtained the regulatory authorisation. According to the Regulation of the Bank of Italy of 14 April 2005, the text of the fund rules, if examined by the competent corporate body, can be enclosed to the authorisation request of the fund manager.

10 It is necessary to highlight that such simplified procedure is provided exclusively for the funds reserved to qualified investors, that need a lower level protection because of their professional competence. In any case the Bank of Italy can carry out controls.

11 As clarified by the Italian Revenue Agency (Circular Letter No. 2/E of 15 February 2012), the Italian Tax Authorities issue, upon request by the fund manager, a tax residence certificate with regard to Italian resident real estate funds for the purposes of the application of the double taxation conventions.

12 Art. 73, paragraph 3, of D.P.R. N0. 917/1986 (the Income Tax Code, "ITC").

rules.

2. Direct taxes

Even if real estate funds established in Italy are, in principle, subject to IRES, they are expressly exempt from income tax (IRES) and regional tax on productive activities (IRAP)[13]. As a consequence, the typical proceeds of real estate funds (i.e. rents from leasing activities and capital gains from the sale of real estate assets and rights) are exempt from income taxes.

Real estate funds are subject to taxation (by way of withholding tax) only on certain types of income from capital in a limited number of cases.[14]

3. VAT

Real estate funds are not autonomous VAT taxpayers. The fund manager is the VAT taxpayer liable to VAT with regard to the sales of goods and supply of services referable to the real estate funds under management.[15]

The VAT referable to a fund is determined and calculated separately from that referable to the fund manager and to the other funds managed by the fund manager. The fund manager executes a single payment of VAT, offsetting credit and debit positions.

4. Registration, mortgage and cadastral taxes

In general, registration, mortgage and cadastral taxes on real estate transactions involving real estate funds apply at standard rates, except in the following cases:

- deeds of establishment of real estate investment funds and subscription of units are not subject to registration.[16] However, in case of voluntary egistration or in case of notarial deeds, registration tax applies at the fixed amount of EUR 200;[17]

- cadastral inscriptions and real estate transcriptions related to transfers of commercial real estate assets to which real estate funds are parties, even if subject to VAT, are subject to mortgage and cadastral taxes at the rates of, respectively, 1.5% and 0.5% rate (i.e., 50% of the standard rates)[18].

5. Contribution of real estate assets mainly rented

Contributions of real estate assets to real estate funds made by VAT taxpayers, constituted of a plurality[19] of real estate assets mainly rented[20] at the moment of the contribution are outside the scope of VAT and subject to registration, mortgage and cadastral taxes at the fixed amount of EUR 200 each.[21]

6. Real estate funds formed by way of asset contributions by public entities

Contributions of real estate funds by public entities to real estate funds do not trigger any taxable gain or deductible loss in the hands of the contributing

13 Art. 6, paragraph 1, of Law Decree No. 351/2001.

14 The withholding or substitutive tax does not apply to the following categories of income from capital:
(i) dividends;
(ii) interest from bonds regulated by Legislative Decree No. 239/1996;
(iii) interest from bank accounts;
(iv) profits from other real estate funds;
(v) ncome from capital deriving from the participation in Italian or so-called “historic” Luxembourg undertakings for the collective investments.

15 Art. 8, paragraph 1, of Law Decree No. 351/2001.

16 Art. 9, paragraph 1, of Law Decree No. 351/2001.

17 Arts. 7 of Chart and 11 of Tariff, Part II, attached to the Presidential Decree No. 131/1986.

18 Art. 35, paragraph 10-ter, of Law Decree No. 223/2006.

19 The contribution must consist of two or more real estate assets

20 The requirement of prevalence must be verified comparing the effective value of the real estate assets rented with the total value of the real estate assets contributed.

21 Art. 8, pararaph 1-bis, of Law Decree No. 351/2001. See also Circular Letter No. 22/E of 2006.

entity under certain conditions. Units received in exchange for the contribution maintain, for income tax purposes, the same tax value of the contributed assets.

III. The tax treatment of the participants

The tax treatment of the profits from the investment in an Italian real estate fund depends on the nature of the investors.

1. Profits distributed by the fund

Profits (including those deriving from the redemption or liquidation of the units) distributed by Italian real estate funds are subject to a 26% withholding tax, applied by the fund manager at the moment of the distribution.

The withholding tax applies as follows:

- it is a final payment of taxes for investors resident in Italy for tax purposes that do not hold the units in the exercise of a business activity (e.g. individuals and non-profit entities) and non-resident investors without a permanent establishment in Italy;

- it is an advance payment for investors resident in Italy for tax purposes that hold the units in the exercise of a business activity and non-resident investors with a permanent establishment (to which the investment is referable) in Italy.

In case of advance withholding tax, the gross income subject to withholding is taxed in the hands of the recipient according to the ordinary rules (i.e. at the rate of 24% with regard to corporate entities subject to IRES; or at progressive tax rates with regard to persons subject to individual income tax (IRPEF)), with the possibility to credit the sums withheld against the taxes due.

1.1. In particular: foreign investors

As noted, in general, profits distributed by Italian real estate funds are subject to a 26% final withholding tax.

Subject to certain requirements, withholding tax can be reduced according to the provisions of double taxation conventions. In order to apply the lower conventional rate, the withholding agents need to receive the following documentation[22]:

a) a declaration of the non-resident investor, beneficial owner of the profits, containing the identification details, the existence of all the requirements for the entitlement to the conventional treatment, and the other elements necessary to determine the applicable tax rate pursuant to the applicable double taxation convention;

b) a certificate of residence issued by the competent tax authorities of the State of residence of the beneficial owner of the profits for the purposes of the application of the double taxation convention.

According to the Italian Tax Authorities, lacking a specific conventional provision, profits from the participation in real estate funds must be considered as “interest” for the purposes of Article 11 of the double taxation conventions concluded by Italy according to the OECD Model Convention.[23]

Moreover, the following investors are exempt from withholding tax or any other Italian taxation:[24]

- pension funds and undertakings for the collective investment established in jurisdictions that have an effective exchange of information on tax matters with Italy (so-called “White List” jurisdictions);

- international organisations and bodies recognised under an international agreement implemented in Italy;

- central banks and other bodies that manage the official reserves of a State.

22 Art. 7, paragraph 3-bis, of Law Decree No. 351/2001.

23 Circular Letter No. 11/E of 9 March 2011.

24 Art. 7, paragraph 3, of Law Decree No. 351/2001. In order to benefit from the exemption regime, the aforementioned foreign investors must self-certify their own residence and the holding period of the units (Circular Letter No. 11/E of 9 March 2011).

2.Capital gains

Capital gains derived from the sale of the units of the fund by Italian-resident investors that do not hold the units in the exercise of a business activity and non-resident investors without a permanent establishment in Italy are subject to a 26% substitutive tax.

Capital gains derived by Italian-resident investors holding the units in the exercise of a business activity and non-resident investors with a permanent establishment (to which the investment is referable) in Italy are subject to ordinary taxation for IRES and IRAP purposes, without the possibility to apply the participation exemption regime.With regard to foreign investors, capital gains are ordinarily subject to 26% taxation. A specific exemption applies to the following investors:[25]

- investors resident in White List jurisdictions;

- international organisations and bodies recognised under an international agreement;

- foreign institutional investors established in White List jurisdictions, even if not subject to tax;

- central banks and other bodies that manage the official reserves of a State.

Moreover, capital gains realised by non-resident investors are not, as a rule, taxable in Italy, if one of the double taxation convention entered into by Italy applies.

IV. Tax transparency

With the aim of tackling the abuse of real estate funds, the tax regime applicable to the investors differs depending on the nature of the investor (institutional/non-institutional investors) and on the size of the participation in the fund (higher or lower than 5%). On this basis, investors not qualifying as institutional are subject to a less favourable tax treatment[26]. With regard to those investors, if they hold a participation higher than 5%, the income of by the fund is imputed by transparency as if they directly held the real estate investment underneath.

1. Institutional funds

"Institutional funds" are those real estate funds participated exclusively by one or more of the following investors (so-called "institutional investors"):

a) the Italian State or other Italian public entities;

b) undertakings for the collective investment established in Italy;

c) pension funds and mandatory social security entities;

d) Italian insurance companies, solely with regard to investments for the coverage of the technical reserves;

e) Italian banks and financial intermediaries subject to regulatory supervision;

f) persons and estates listed above established in White List jurisdictions;

g) private entities resident in Italy pursuing certain purposes (such as education, religion, civil rights, etc.) and companies resident in Italy pursuing solely mutual purposes;

h) corporate or contractual vehicles resident in Italy or other White List jurisdictions participated for more than 50% by any of the subjects listed above.

In any case, institutional funds are in any case entitled to the tax treatment of real estate funds, irrespective of the requirements of plurality of participants and autonomous management prescribed for regulatory purposes.

Institutional investors are subject to tax according to the ordinary rules described above.

With specific regard to the category under letter h), all corporate or contractual vehicles resident in Italy or abroad participated for more than 50%

25 Art. 5, paragraph 5, of Legislative Decree No. 461/1997.

26 Art. 32 of Law Decree No. 78/2010.

by any of the subjects listed in letters from a) to g) above are encompassed.[27] Institutional investors can participate in the vehicle either directly or indirectly (in such a case, it is necessary to take into account the de-multiplication effect of the indirect participation).

2. Funds other than institutional funds

With specific regard to funds that are not entirely participated by institutional investors, provided that the regulatory requirements to qualify as investment funds are met, the following scenarios can be envisaged:

- non-insitutional investitors holding a participation equal or lower than 5% in the fund: they are subject to tax according to the ordinary provisions described above;

- non-insitutional investitors holding a participation higher than 5% in the fund[28]: income realised by the real estate fund and registered in the business reports is attributed by transparency to the investors, independently from the distribution and in proportion to the participation held, and becomes part of their taxable base.

In relation to non-resident investors, the tax transparency regime operates by applying a 26% final withholding tax on the income attributed. If the investor is resident in a jurisdiction with which Italy has a double taxation convention in place, the lower conventional tax rate provided by the article governing the tax treatment of "interest" (generally, Article 11 of the convention drafted in accordance with the OECD Model Convention) applies. The following non-resident investors are fully exempt: (i) pension funds and undertakings for the collective investment established in White List jurisdictions; (ii) international organisations and bodies recognised under an international agreement; (iii) central banks and other bodies that manage the official reserves of a State.

With regard to the tax treatment of capital gains, tax transparent participations are assimilated to the participations in companies and commercial entities and the related capital gains are taxed according to the ordinary provisions.

V. Anti-abuse measures

Among the provisions aimed at tackling the abusive use of Italian real estate funds, the provision contrasting arrangements through which Italian-resident investors interpose foreign entities (the so-called "esterovestizione") is of a prominent importance. Such abusive schemes try to avoid the ordinary taxation that would apply if the units of the funds are held directly by the Italian-resident investors.

The anti-abuse rule provides, by rebuttable presumption, that foreign companies and entities must be considered resident in Italy for tax purposes, if the following conditions are met: (i) their capital is invested mainly in units of Italian undertakings for the collective investment; (ii) they are controlled by Italian-resident investors.[29] If the aforementioned conditions are fulfilled, the foreign company is considered resident in Italy, subject to ordinary Italian income taxation on the worldwide income.

If the residence presumption does not apply, the Italian Tax Authorities can neverthless assess the Italian residence of the foreign entity on the basis of the general criteria for determining the tax residence (e.g. demonstrating that the place of effective management of the company is in Italy).

27 According to the Italian Tax Authorities (Circular Letter No. 2/E of 2012), trusts whose beneficiaries are identified, partnerships, companies and entities controlled by foreign States (e.g. sovereign funds) can qualify as institutional investors.

28 The relevant percentage of participation in the fund is that at the end of the tax year or, if shorter, at the end of the management period of the fund, in proportion to the units of participation held. In order to verify such percentage, both direct and indirect (through controlled companies, fiduciary companies or interposed persons) participations are relevant. The control is determined according to Art. 2359, paragraphs 1 and 2, of the Italian Civil Code, also for the participations held by investors other than companies, taking into account the participations held by family members (i.e. spouse, relatives within the third grade of kinship and relatives-in law within the second grade).

29 Art. 73, paragraph 5-quater, of ITC.

Chapter II

Real estate SICAF

I. Main features and functioning

An instrument alternative to real estate investment funds

Closed-ended investment companies (società di investimento a capitale fisso, "SICAF") have been introduced in the Italian legal system since 2014, upon implementation of Directive No. 2011/61/EU (so-called "AIFM Directive").[30]

With the introduction of the SICAF, the possibility to invest in real estate has been expanded with a new type of closed-ended undertaking for the collective investment, alternative to real estate investment funds, with the aim to satisfy certain regulatory and commercial needs of foreign investors.[31] Since SICAFs and real estate funds are subject to the same tax regime[32], the choice among the two instruments is typically made on the basis of legal and commercial reasons.

Legal form

SICAFs are closed-ended undertakings for the collective investment, incorporated as joint stock companies with a fixed capital, legal and management seat in Italy, whose exclusive business purposes is the collective investment of the pool of assets collected through the issuance of shares and other participating financial instruments (with the exclusion of bonds).[33]
In order to briefly sum up, SICAFs:

- are incorporated as joint stock companies with a fixed capital;

- are closed-ended undertakings for the collective investment;

- are within the scope of the AIFM Directive (as alternative investment funds ("AIF") or AIF managers);

- can directly manage the pool of assets collected or entrust the management to an external manager;

- are regulated by the provision of the TUF and of the Civil Code;

- are authorised by the Bank of Italy and subject to its regulatory supervision.

In order for a SICAF to qualify as a real estate SICAF, its pool of assets shall be invested, for at least two thirds value, in accordance with the limits and criteria established by the Bank of Italy, in real estate assets and rights (including rights from real estate leasing contracts and concessions), participations in real estate companies and in other real estate FIA.[34] The percentage is reduced to 51%, if the funds of the SICAF are invested, for at least 20%, in financial securities issued in the context of

30 Legislative Decree No. 44/2014.

31 Circular letter of Assogestioni No. 69/14/C of 2014.

32 The only relevant difference from a tax standpoint is the different tax treatment of the management fees for IRES purposes. While, in the structure funds/fund manager, the management fees form the taxable base for IRES purposes of the fund manager, in case of a SICAF acting as fund manager or managed by another SICAF (so, not managed by a fund manager in the form of a SGR), the management fees are not relevant for IRES purposes due to the exemption regime provided by Art. 6 of Law Decree No. 351/2001.

33 Art. 35-quindiques, paragraph 6, of TUF.

34 Art. 12, paragraph 2, of Ministerial Decree No. 30/2015.

securitisation transactions involving real estate assets and rights or credits secured by mortgage.

II. Tax regime

In general, by virtue of a specific legislative provision, the tax treatment of real estate funds applies to real estate SICAFs.[35]
In particular, the following provisions provided for real estate investment funds apply with respect to real estate SICAFs[36]:

- the tax regime applicable to real estate investment funds for direct and indirect taxes and the tax treatment of the participants;[37]

- the tax regime of institutional funds and the tax transparency regime for non-institutional investors holding a participation higher than 5%;[38]

- the tax regime applicable to the contribution of real estate assets and rights to real estate funds formed mainly by way of contributions by public entities;[39]

- the 50% reduction of mortgage and cadastral taxes on the cadastral inscriptions and real estate transcriptions related to the transfers of commercial real estate assets to which real estate funds are parties;[40]

- possibility to opt for the application of a 20% substitutive tax on the capital gains realised upon contribution of real estate assets and rights to real estate investment funds.[41]

With regard to IRAP, SICAFs apply the same provisions applicable to SICAVs.[42] Therefore, the taxable base for IRAP purposes consists of the difference between subscription fees and passive fees due to placement agents.

35 Art. 9, paragraph 1, of Legislative Decree No. 44/2014.

36 Please refer to the relevant paragraphs of Chapter 1 for a more detailed description.

37 Arts. 6 and following of Law Decree No. 351/2001.

38 Art. 32 of Law Decree No. 78/2010.

39 Art. 14-bis of Law No. 86/1994.

40 Art. 35, paragraph 10-ter, of Law Decree No. 223/2006.

41 Art. 1, paragraph 140, of Law No. 296/2006.

42 Art. 9, paragraph 3, of Legislative Decree. No. 44/2014. In order to solve an interpretative doubt regarding the applicability of IRAP to real estate SICAF, the Italian Revenue Agency clarified that the IRAP provisions apply to the SICAF irrespective of the object of their investment and, as a consequence, they also apply to real estate SICAF.

Chapter III

SIIQ - The Italian REIT

I. About the SIIQ and SIINQ and their functioning

The listed real estate investment company (società di investimento immobiliare quotata, "SIIQ") and the non listed real estate investment company (società di investimento immobiliare non quotate, "SIINQ") are instruments introduced by the legislator to promote the development of the Italian real estate market, with special regard to the rental business.

Their introduction aimed at increasing the transparency and the attractiveness of the real estate market creating investment instruments addressed to a wider range of investors, managed by professional agents and especially subject to a favorable tax treatment, which has the following fundamental features:

- the exemption from IRES and IRAP deriving from the lease of real estate assets (the so called "exempt management");

- the postponement of the taxation of the income deriving from the lease of real estate assets to the distribution to the shareholders by way of a withholding tax at the rate of 26% (15% in some cases);

- the payment of an "entry tax" at the rate of 20% on the positive difference (if any) between the market value and the tax value of the real estate assets included in the lease activity.

II. Requirements

The SIIQ

SIIQs are joint stock companies, resident for tax purposes in Italy, with shares traded on the regulated markets of Italy or EU Member States or States part of the Agreement on the European Economic Area ("EEA") included in the White List.

Furthermore, a specific tax regime applies to Italian permanent establishments of companies resident in EU Member States or in EEA States included in the White List.

SIIQs are subject to the vigilance of the Bank of Italy and Consob, within the respective powers recognised by law.

The bylaws of a SIIQ must necessarily contain the rules regarding investments, limitations to risk concentration and leverage allowed at individual and group level. Moreover, the minimum content of the bylaws must be also compliant with the instructions of the supervisory authorities of the stock exchange where the shares are listed.

As regards the participation structure, the following requirements apply:[43]

- no shareholder can hold, directly or indirectly, more than 60% of the voting rights in the ordinary shareholders' meeting and/or, alternatively, more than 60% of the profit participation rights ("control requirement");

- at least 25% of the shares must be held by shareholders who do not hold, at the time of the option for the special

- regime, directly or indirectly, more than 2% of voting rights in the ordinary shareholders' meeting and more than

43 Article 1, par. 119, of Law No. 296/2006.

2% of the profit participation rights ("floating requirements").

SIIQs must carry out mainly the activity of lease of real estate assets. For such purpose, it is necessary that the following asset and income requirements are met:

- real estate assets (including those held on the basis of a financial lease) must represent at least 80% of the total assets ("asset requirement");

- revenues deriving from the the lease of real estate assets must represent, in each financial period, at least 80% of the total income ("income requirement").

In order to verify such requirements, it is necessary to consider the data resulting from the financial statements of each financial period.

The SIINQ

The regime of SIIQs can be extended to companies limited by shares, resident in Italy, whose shares are not negotiated in regulated markets ("società di investimento immobiliare non quotata" or "SIINQ") that satisfy the following requirements:[44]

- a SIINQ must mainly carry out the activity of lease of real estate assets;

- at least the 95% of the voting shares and profit participation rights in a SIINQ are held by a SIIQ, also together with others SIIQ;

- a SIINQ must exercise the option for the special regime jointly with the controlling SIIQ;

- the controlling SIIQ must meet the control requirement prescribed for the application of the group taxation regime ("domestic tax consolidation")[45] and must have exercised the option for such regime.

III. The tax treatment of SIIQs and SIINQs

Exercise and effect of the election

The election must be made by the end of the tax year preceding the tax year from which the taxpayer intends to apply the SIIQ regime.

The option is irrevocable and implies the use of the denomination "Società di investimento immobiliare quotata" (SIIQ), to be indicated, also in the shortened form, in the company name and in all company's documents.

At the moment of the option, the company has to declare to hold all the requirements described before. The participation requirements must be verified by the first tax year for which the option is exercised and the special regime is effective from the beginning of that period. However, with the aim to facilitate the access to the special regime, for the companies that at the end of the first tax year have met only the floating requirement, it is allowed to meet the control requirement in the two subsequent tax years. In such a case, the special regime applies from the beginning of the tax period in which the control requirement is met and until then the company is subject to IRES and IRAP under the ordinary rules.

2. Entry tax

The option for the special regime determines the realization at market value of the real estate assets and rights to be rented, held at the end of the last tax year prior to acceding the SIIQ regime.

Capital gains (if any) are subject to a substitutive tax of IRES and IRAP at the rate of 20% (the so called "entry tax"). Capital gains, net of any capital losses, are equal to the difference between the market value of the real estate assets and rights and the tax basis.

The market value used as base for the determination of capital gains subject to the entry tax will represent the new fiscal value of the assets after four years. In case of transfer before such term, the

44 Article 1, par. 125, of Law No. 296/2006.

45 According to the article 117 of ITC, the controlling company must have the control by article 2359, par. 1 of Civil Code, moreover, according to the article 120 of ITC, it is necessary the direct or indirect participation in the share capital and in the financial statement income for more than 50% (considering the demultiplication effect and excluding shares without voting rights).

difference between the market value subject to substitutive tax and the recognized tax cost before the entry in the special regime, net of depreciation, is subject to ordinary tax and the substitutive tax proportionally referable to the real estate assets that have been transferred is granted as a credit.

As an alternative to the entry tax, the company can choose to include the total amount of capital gains, net of eventually capital losses, in the business income subject to the standard income taxation.

3. The exemption of the income deriving from rental activity

The main effect of the special regime is the exemption from IRES and IRAP of the profits deriving from the lease of real estate assets. The business income deriving from activities other than the lease of real estate assets remains subject to the ordinary income tax treatment (IRES and IRAP).

In particular, the exemption includes:

- profits deriving from the lease of real estate assets;

- dividend from SIIQs and SIINQs, provided that they are formed with profits deriving from the lease of real estate assets;

- capital gains and losses from real estate assets for rent and from shares in SIIQs or SIINQs as well as profits and capital gains or losses from real estate investment funds which are invested for at least 80% in real estate assets and rights and from shares of real estate companies or other real estate investment funds.

A tax credit is granted with regard to income taxes paid abroad by a SIIQ or a SIINQ in relation to foreign real estate assets within the scope of the exemption. The exemption is not "definitive". It entails a postponement of the taxation at the time of the distribution.[46] In other words, instead of taxation at the time of production, tax is levied only at the time of distribution.

For IRAP purposes, the value of production referable to the lease of real estate assets is exempt. Such value is determined on the basis of the ratio between the income from the lease of real estate assets and the total income included in the IRAP taxable base.

With regard to companies resident in EU Member States or in EEA States included in the White List with a permanent establishment in Italy, instead of the exemption regime, the income of the permanent establishment is subject to a substitutive tax at the rate of 20%.

4. Dividend pay-out obligations

Under the SIIQ regime, at least 70% of net profits available for distributions that is derived from the lease of real estate assets and other qualifying sources must be distributed to the shareholders on an annual basis.[47]

Furthermore, 50% of the profits derived from the capital gains realized on the sale of real estate assets for rent as well as those derived from the sale of shares in SIIQs and SIINQs or in real estate investment funds with a prevailing activity of lease of real estate assets must be distributed by the second financial year following the year of realization.[48]

If the obligation of distribution is not respected, the option for the special regime ceases to take effect from the same financial year under which the incomes not-distributed are formed.[49]

5. Termination

The requirements of the SIIQ regime must be met throughout the whole period during which the regime applies. If one of the requirements is not met (except for the floating requirement), the special regime is terminated.

46 Circular Letter No. 8/E of 2008.

47 Article 1, par. 123, of Law No. 296/2006.

48 Article 1, par. 123-bis, of Law No. 296/2006.

49 The Italian Tax Authority (Circular Letter No. 32/E of 2015) clarified that the violation of the pay-out obligation of the net capital gain gives rise to the termination of the special regime from the second financial period following that of realization.

The SIIQ regime is terminated in the same year of the relevant event if the company ceases: (i) to be resident in Italy for tax purposes, (ii) to be in the form of a joint stock company, and (iii) to be listed on a regulated market further to withdrawal. The temporary suspension of the listing is not a cause of termination.

If for three consecutive tax periods (the so called "grace period") any of the asset or income requirements is not met, the SIIQ regime is terminated from the second tax year. If, at the end of a tax year both requirements are not met, the termination of the regime operates from such tax year.
As regard SIINQs, in addition to the termination causes mentioned above, the regime terminates if the SIINQ ceases to be controlled by a SIIQ or if the tax consolidation is interrupted.

When one of the termination causes of the special regime occurs, from a civil law point of view, the company loses the SIIQ qualification, but it can remain listed on regulated markets. Furthermore, the obligation of annual pay-out and of separate book-keeping as well as the rules about surveillance and statutory requirements can no longer apply.

As regard the tax treatment, the consequences of the termination can be summarized in the cessation of the exemption and in the subsequent application of the ordinary taxation rules for IRES and IRAP.

IV. Contribution of real estate assets

Income taxes

The contribution of real estate assets or real estate rights to a SIIQ or a SIINQ is generally a taxable event for income tax purposes in the hands of the contributor (individuals not acting in the course of a business, individual entrepreneurs, companies).

In this regard, capital gains realised upon contribution are subject, upon election of the contributing party, either to ordinary taxation or to a substitutive tax at the tax rate of 20%.[50]

The substitutive tax is applicable regardless of the nature of the contributing party and it can be paid in five instalments of equal amount. Capital losses are not deductible from capital gains for the purposes of the substitutive tax.

The substitutive tax is subject to the condition that the beneficiary company holds the assets received for at least three years. The sale before three years implies consequences only for the beneficiary company, while it is irrelevant for the contributing party: the capital gain on the subsequent alienation of the real estate assets is calculated on the basis of a tax value equal to the cost recognized for the tax purposes in the hands of the contributing party (i.e. the old fiscal value) and the substitutive tax is credited to the beneficiary company.

2. VAT and other indirect taxes

The contributions to a SIIQ or a SIINQ constituted by a plurality of real estate assets that are mainly rented are excluded from VAT and are subject to registration tax, mortgage tax and cadastral tax at the fixed amount of Euro 200 each.[51]

V. The tax treatment of the shareholders

Dividend distributions

Dividends distributed by a SIIQ or a SIINQ are subject to a different tax treatment depending on whether they are formed by exempt profits or taxable profits.[52]

Dividends formed by exempt profits are subject to withholding tax at the rate of 26% (15% for the part referable to the lease of residential real estate assets under certain conditions).[53]

The withholding tax is applied by way

50 Article 1, par. 137, of Law No. 296/2006.

51 Article 1, par. 138, of Law No. 296/2006.

52 Article 1, par. 131, of Law No. 296/2006.

53 Article 1, par. 134, of Law No. 296/2006.

of advance of taxes if the SIIQ shares are held in connection with a business activity. For these investors, dividends are included in the taxable income and the withholding tax applied is deductible from income taxes.[54]
In any other case, withholding tax is applied as a final tax.

No withholding tax applies with respect to dividends distributed to other SIIQs, pension funds, undertakings for the collective investment established in Italy[55] and individual portfolios under management.

Dividends formed by taxable profits are subject to the ordinary rules on dividends. Dividends formed by exempt profits distributed to companies resident in a EU Member State or a EEA State do not benefit from the withholding exemption under the Directive No. 2011/96/UE (the so called "Parent-Subsidiary Directive")[56]. On the other hand, dividends formed by taxable profits can benefit from the exemption under the Parent-Subsidiary Directive.

2. Capital gains

In general, capital gains and losses from the sale of shares in SIIQs or SIINQs are included in the taxable income for IRES and IRPEF purposes.

In case of entry tax at the moment of the option for the special regime, the tax basis of the shares in SIIQs or SIINQs is proportionally increased by the amount of the capital gain (net of capital losses).

VI. From a real estate investment fund to a SIIQ

The Italian legislator introduced two measures to facilitate the transition from a real estate investment fund (or real estate SICAF)[57] to a SIIQ/SIINQ.

1. Contribution and assignment of shares

The first measure consists of the contribution of real estate assets from a real estate investment fund (or a real estate SICAF) to a SIIQ and the subsequent assignment to the fund unit holders of the shares in the SIIQ received in exchange for contribution.[58]

With regard to the fund unit holders, the exchange of fund units for SIIQ shares is not a taxable event for income taxes purposes. The SIIQ shares received have the same tax basis of the fund units.

With regard to the SIIQ, the contribution value reported in the financial statement represents the recognized tax value of the real estate assets. In particular, the SIIQ benefits of a step up in value of the real estate assets without a corresponding taxation for the contributing party.

In case of contribution of a plurality of real estate assets mainly rented, VAT does not apply and registration tax, mortgage tax and cadastral tax apply at the fixed amount of Euro 200 each. Moreover, the subsequent sale or assignment of the SIIQ shares, which are exempt for VAT purposes, are considered transactions that do not form part of the typical activities of the real estate fund, thus not with no negative impact on the VAT deduction.

2. Liquidation of real estate funds

Another alternative to modify the structure from a real estate fund (or a real estate SICAF) to a SIIQ is to assign the real estate assets to the SIIQ by liquidating the real estate fund. This transaction, assumes that the SIIQ holds the units of the real estate fund.[59]

In case of assignment of a plurality of real estate assets mainly rented, VAT does not apply and registration tax, mortgage tax and cadastral tax apply at the fixed amount of Eur 200 each.

54 According to the article 1, par. 134, of Law No. 296/2006, the entire amount of dividends formed by exempt profits is included in the taxable income, irrespective of the exemption regime ordinarily applicable to dividends.

55 As confirmed by Circular Letter No. 32/E of 2015.

56 Article 1, par. 134-bis, of Law No. 296/2006.

57 Article 1, par. 140-ter, of Law No. 296/2006.

58 Article 1, par. 140-ter, of Law No. 296/2006.

59 Article 1, par. 140-ter, of Law No. 296/2006.

Chapter IV

Real estate companies – Selection of relevant tax aspects

1. Introduction

Real estate companies, in the form of corporate entities, are generally subject to IRES and IRAP.[60]

This chapter contains a selection of most relevant tax aspects regarding real estate companies.

2. The taxation of real estate assets not used in the business

Income in relation to real estate assets (so called "immobili patrimonio") other than instrumental assets or assets whose production or exchange represents the business of the enterprise is determined on a lump-sum basis (i.e. not on the basis of the actual income realised). However, if the above mentioned real estate assets are rented and the rental income (reduced of 15% and of the expenses for ordinary maintenance) is higher than the lump-sum income, the taxable income is equal to the rental income effectively realised net of the above mentioned reductions.

It should also be noted that expenses and other negative components (typically depreciation allowances and expenses for ordinary maintenance reported in the profit & loss account) in relation to such real estate assets (immobili patrimonio) are not deductible for corporate income tax purposes. A specific exception is provided solely for interest expenses on loans for the acquisition of real estate assets qualifying as "immobili patrimonio" which are excluded from the above mentioned limitation and are therefore deductible subject to the ordinary rules (see below).[61]

3. The depreciation of instrumental real estate

In general, depreciation allowances are deductible for corporate income tax purposes subject to certain limitations.

In particular, with regard to nstrumental real estate assets, it should be noted that, for the purposes of depreciation the cost of instrumental real estate assets has to be considered net of the value of the related land[62]; the value of land is equal to the higher of (i) the value reported in the balance sheet in the year of acquisition or (ii) an amount equal to 20% of the total cost (30% in case of industrial real estate assets, such as plants).[63]

These rules are applicable also to instrumental real estate assets subject to finance lease.

4. The participation exemption regime

Capital gains derived from the sale of

60 The basic tax rate of IRAP, equal to 3,9%, can be increased or decreased by the Region, up to maximum of 0,92 %.

61 Art. 1, paragraph 35, L. No. 244/2007.

62 Article 36, par. 7, of the Law Decree No. 223/2006.

63 Industrial buildings means buildings used for the production or the transformation of goods, on the basis of their effective destination in the fiscal year during which they start to function and not on the basis of the classification or cadastral purposes or for the purposes of the financial statements.

a participation in a company would be exempt from Italian corporate income tax for 95% of their amount (and 5% would be subject to Italian corporate income tax at the rate of 27.5%) under the participation exemption regime provided that the following conditions are met:[64]

(i) the participation has been held with no interruptions for at least 12 months;

(ii) the participation is classified as a fixed financial asset in the first financial statements after acquisition/incorporation;

(iii) the participated company is resident in a country other than a country with a privileged tax system;[65]

(iv) the participated company effectively carries out a business activity ("commerciality requirement").

If one of the conditions listed above is not met, the capital gain is included in the ordinary income for corporate income tax purposes and may be taxed in 5 years in equal installments if the shares have been held for 3 years.

With regard to the commerciality requirement, according to the clarifications of the Italian Tax Authorities,[66] it is required that the participated company has an operating structure suitable (even if only potentially) for the exercise of a business activity. Such requirement is not necessary with reference to listed shares.

The commerciality requirement is not met for companies whose assets are constituted mainly by real estate assets other than assets directly used in the exercise of a commercial activity or assets whose production or exchange is the main activity of the company. For these purposes, the Italian Tax Authorities observed that rented buildings are not considered used directly in the business activity, except for the cases where the lease is not independently relevant, but it is functionally connected with a range services.[67]

Furthermore, the commerciality requirement is not met by real estate companies whose main business is to rent real estate assets.

5. Non-operating companies

The regime of "non-operating companies" has been introduced to contrast the interposition of companies for the purpose of holding assets.

According to Article 30 of L. No. 724/1994, a company is deemed to be "non-operating" if the actual proceeds are lower than the minimum income determined as the sum of the book values of certain identified assets multiplied by certain percentages. The proceeds and the book values of the assets are taken into account on the basis of the arithmetic mean of the relevant year and of the two preceding years. It should be noted that, for these purposes, the general percentage for real estate assets is equal to 6%, reduced to 5% for offices and to 4% for residential real estate assets acquired or revaluated in the relevant year or in the two preceding years.

If, on the basis of the above, a company qualifies as "non-operating", it is imputed a figurative income determined as the sum of the book values of certain assets multiplied by certain percentages. For such purposes, with reference to real estate assets, the general percentage is 4.75%, reduced to 4% for offices and to 3.75% for residential real estate assets acquired or revaluated in the relevant year or in the two preceding years. The figurative income is also attributed, subject to certain adjustments, for the purposes of regional tax on productive

64 Article 87 of ITC.

65 According to article 47-bis of ITC, a country or territory is considered to have a privileged tax regime in the following cases:
(i) if the non-resident entity is controlled by an Italian resident, the effective income taxation is lower than 50% of the Italian effective income taxation;
(ii) in the absence of control by an Italian resident, the nominal rate of income taxation is lower than 50% of the Italian nominal rate of income taxation.

66 Circular Letter No. 7/E of 2013.

67 Circular Letter No. 36/E of 2004.

activities (see below). Moreover, a "non-operating" company is subject to limitations in relation to VAT credit positions.

There are several statutory exemptions according to which the "non-operating companies" regime described above does not apply (e.g. companies in their first year of activity). Moreover, acompany qualifing as "non-operating" may, under certain circumstances, file a ruling request with the Italian tax authorities claiming the non-application of the "non-operating companies" regime.

6. Capital gains from real estate assets for IRAP purposes

IRAP applies on the value of the net production derived by a business activity carried out in Italy. Capital gains and losses derived from the sale of real estate assets other than instrumental assets or assets whose production or exchange represents the business of the enterprise are included in the taxable base for IRAP purposes.[68] The Italian Tax Authorities clarified that capital gains and losses related to instrumental goods not deriving from the sale of a going concern are included in the taxable income for IRAP purposes.[69]

7. The revaluation of real estate asstes in the context of extraordinary transactions

In case of contributions of going concern, the beneficiary company can opt for the step up in value for tax purposes of the higher values attributed in the financial statements to the tangible assets (including real estate) and intangible assets through the payment of a substitutive tax at the rate of 12% for any amount up to EUR 5 Mln, 14% for any amount between EUR 5 and EUR 10 Mln and 16% for any amount exceeding EUR 10 Mln.[70] The higher values are recognized (i) for the purposes of depreciation, from the tax year during which the option is exercised, and (ii) for the purposes of realization, from the fourth tax year following the year of the option.

Revaluation of the assets is also possible in case of merger or de-merger.[71]

68 Art. 5, par. 3, of Legislative Decree No. 446/1997.

69 Circular Letter No. 27/E of 2009.

70 Article 176, par. 2-ter of ITC.

71 Articles 172, par. 10-bis and 173, par. 15-bis of ITC.

Chapter V

Real estate securitisations

1. Introduction

The Italian legislator introduced a "*new form of securitisation, whose subject are not credits, but real estate assets, movable assets registered in public registers and rights over the aforementioned assets*",[72] thus allowing to securitise the profits from real estate assets.[73]

2. Essential features

According to the law, the essential features of the securitisation transactions are the following:

- the real estate securitisation vehicle issues notes and uses the funds deriving from the issuance of the notes to finance the acquisition of real estate assets, movable assets registered in public registers and rights on the aforementioned assets;
- profits deriving from the real estate assets and rights acquired, the sumsderiving in any form from the aforementioned assets and rights and any other rights acquired in the course of the securitisation transaction are specifically and exclusively allotted to pay out the noteholders and the costs of the securitisation transaction;
- the real estate securitisation vehicle must identify a person with adequate competences and with the qualifications and authorisations in compliance with the law and assign to such person, in the interest of the investors, the functions of management and administration and the power to act on behalf of the real estate securitisation vehicle.[74]

3. Real estate securitisation veichle

Real estate securitisation vehicles can carry out only real estate securitisation transactions.[75] As long as measures regarding segregation, exclusive allotment, and asset protection are concerned:[76]

- for each real estate securitisation transaction, the real estate assets and rights allotted to satisfy the rights of the holders of the notes issued by the real estate securitisation vehicle are specifically identified;
- he real estate assets and rights identified, the proceeds deriving from them and any other rights acquired in the context of the securitisation transaction constitute a segregated pool of assets, separate, to any extent, from that of the real estate securitisation vehicle and from those pertaining to the other securitisation transactions of the same vehicle;
- the segregated pool of assets is liable for the fulfilment of the obligation

72 Government Explanatory Note to the draft Law converting Law Decree No. 34/2019 (A.C. 1807).

73 Art. 1, paragraph 1088, let. a), No. 2), of Law. No. 145/2018; art. 23, paragraph 1, let. d), of Law Decree No. 34/2019 (so-called Decree for Economic Growth).

74 Art. 7.2, paragraph 1, last sentence, of Law No. 130/1999, which refers to art. 7.1, paragraph 8, first sentence, of Law No. 130/1999.

75 Art. 7.2, paragraph 1, of Law No. 130/1999.

76 Art. 7.2, paragraph 2, of Law No. 130/1999.

vis-à-vis the noteholders;

- creditors other than noteholders, persons that made loans and derivatives counterparties do not have recourse with respect to the segregated pool of assets.

4. Tax treatment of real estate securitisation vehicle

In general, real estate securitisation vehicles are liable to IRES and IRAP.

Having said that, with regard to non-real estate securitisations, the Italian Tax Authorities clarified that the cash flows (both inflows and outflows) related to the segregated pool of assets are not relevant for the purposes of income taxes in the hand of the securitisation vehicle, since inflows are exclusively allotted to the payment of the outflows (*i.e.* payment of the costs of the securitisation transaction and of interest and profits from the notes issued), without the possibility for the securitisation vehicle to use such sums for different purposes;[77] only, upon conclusion of the securitisation, once the creditors are paid out, the possible exceeding amounts would be, if so provided, at disposal of the securitisation veichle and, thus, be relevant for tax purposes. This clarification should be also valid for real estate securitisation vehicles, since real estate assets and rights constitute a segregated pool of assets, separate, to any extent, from that of the real estate securitisation vehicle and from those pertaining to the other securitisation transactions of the same vehicle, specifically and exclusively allotted to pay out the noteholders and the costs of the securitisation transaction.

Fees received as consideration[78] for the management services rendered in the interest of the pool of assets managed should be considered relevant, in the hands of the real estate securitisation vehicle, for determining the taxable base for IRES and IRAP purposes.[79]

5. Tax treatment of investors

By virtue of a general reference to the legislation regarding non-real estate securitisations[80], the regime provided by the Legislative Decree No. 239 of 1 April 1996 should also apply to the notes issued by real estate securitisation vehicles.

With regard to Italian-resident investors:

- individuals, non-commercial entities, non-commercial partneships (società semplice) and entities exempt from IRES are subject to a 26% substitutive tax on interest and other profits deriving from the notes;

- all the other persons and entities are subject to ordinary taxation on interest and other profits received.

Generally, foreign investors are subject to a 26% substitutive tax on interest and other profits. The tax rate can be reduced (generally, to 10%), if a double taxation convention between Italy and the residence State of the investor is applicable.

Moreover, an exemption from Italian taxation is provided for the following foreign investors:[81]

- persons resident in States or territories that allow an effective exchange of information with Italy;[82]

- international organisations and bodies recognised under an international agreement;

- foreign institutional investors

77 Circular letter of the Italian Revenue Agency No. 8/E of 6 February 2003; Resolution of the Italian Revenue Agency No. 222/E of 5 December 2003.

78 It should be noted that the remuneration received by the SPV for the management services carried out in the interest of the segregated pool of asset represents, in the hands of the pool of assets, a cost.

79 Circular letter of Assonime No. 39 of 24 May 2000.

80 Combination of the provisions of Art. 6, paragraph 1, and 7, paragraph 1, of Law No. 130/1999.

81 Art. 6 of Legislative Decree No. 239/1996.

82 The State and territories which allow an effective exchange of information with Italy are the jurisdictions listed in the list set forth by Ministerial Decree of 4 September 1996, as lastly modified by Ministerial Decree of 23 March 2017.

established in States or territories that allow an effective exchange of information with Italy, even if not subject to tax therein;

- central banks and other bodies that manage the official reserves of a State.

Chapter VI

Sustainability applied to the building and real estate chains

(By Marco Mari, Re Mind Managing Director – Vice President Green Building Council Italia)

The existing protocol between the Re Mind Real Estate Sector and GBC Italia is aimed at a better knowledge and application of the best practices of economic and environmental sustainability in real estate investments in Italy.

I. Real Estate Assets: from problem to opportunity

" The construction sector it is not only the largest industrial sector in economic terms, but also in terms of use of resources "
(Paul Hawken - The HOK Guidebook to Sustainable Design)

Concern for climate change and the relative scarcity of environmental resources have become relevant variables also and above all for a correct assessment of credit risk and more generally for a correct assessment of investments. Likewise, awareness of the impact of buildings on the aspects that govern these balances has made its way. It is no coincidence that during COP21, a table dedicated to the construction industry, "Buildings Day", was opened for the first time. With this event, it has actually been stated that the buildings in which we live, study, work and even those in which we go to be treated or prayed, represent a substantial impact on the environment, on our health and not only, but also offer the greatest potential for an action of redevelopment and regeneration of our cities, our neighborhoods and our lifestyle.

Globally, buildings use around 40% of energy, 25% of global water, 40% of global resources, and emit over 38% of greenhouse gas emissions - says UNEP[83]. In addition, according to the World Health Organization,[84] the increase in allergic diseases and asthma is directly related to urbanization phenomena and the growing tendency of western populations to live most of the time indoors. Even in Italy, according to

83 Data Source: UNEP (United Nations Environment Programme environment for development)

84 Data Source: Global Initiative for asthma. Italian guide line 2013. http://new2.ginasma.it/index.php/documenti/documenti/item/65-testo-gina-2013

ISTAT[85] data, respiratory diseases, after cardiovascular and neoplastic diseases, represent the third leading cause of death.

With these premises, As argued by Bruno Berthon and Philippe Guittat "*in an increasingly urbanized world, the winning city of the future will have to focus on achieving two objectives: managing resources according to sustainability criteria and creating an attractive economic and social context in where citizens, businesses and administrations can live, work and interact*"[86].

II. Greening Buildings and igrastructures to guarantee performance and investments: a consolidated and growing trend at international and national level

1. Green Building and international trends

The main international practices are inextricably linked to new approaches that pivot on sustainability. An incontrovertible evidence is the rapid diffusion of the various sustainability certification protocols for buildings, the application of energy-environmental protocols (rating system), such as LEED®, BREEAM®, WELL®, GREEN STAR® or as further national ones. International studies relating to growth trends in the sustainable construction sector speak of an unprecedented increase in the data market, forecasting 70% increase in the global green building market by 2025.[87]

Various studies carried out in the last ten years show that buildings certified according to energy-environmental protocols tend to have higher asset values than traditional buildings. More recently, financial institutions have also shown clear interests in the state of buildings in Europe. Specifically, it is estimated that loans for mortgage loans amount to about a third of the assets of the European banking sector and that investing in improving the energy-environmental performance of buildings can help to free up available capital thanks to lower bills and increasing the asset value. These are the results deriving from the European project EeMAP [88](Energy Efficient Mortgage Action Plan), which concludes by highlighting that investments in sustainable construction reduce credit and operational risks, representing a successful solution for all stakeholders: those who lend money , those who invest, consumers and the environment.

2. Green Building and real estate value in Italy

From this point of view, Italy constitutes a formidable test bench for the ability to meet the challenges facing the economy in the coming decades. A building and real estate sector where for a long time quantity has rewarded quality, a territory with a landscape, naturalistic, cultural and artistic heritage which, despite everything, continues to represent an asset of primary importance worldwide; but also an architectural and engineering tradition that has its roots in ancient history, an economic and productive fabric that, despite the long crisis, is rapidly innovating, aligning itself with the international reporting logic with the presence of consolidated experiences and excellence.

A recent study in Italy[89], applied to over 50 buildings certified with the LEED® protocol in Milan, has found, similar to many international studies, that the market rewards certified assets for the same location and destination, giving real estate a premium price on average from 7% to 11% depending on the performance achieved and certified.

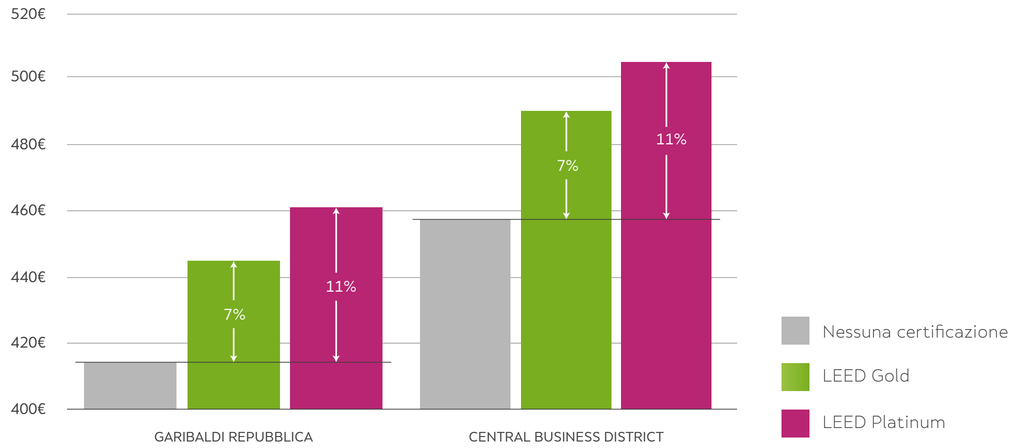
85 Data source: Annuario Statistico Italiano 2009. http://www3.istat.it/dati/catalogo/20101119_00/PDF/cap3.pdf

86 Bruno Berthon e Philippe Guittat (2011), "Ascesa della città intelligente" Outlook.

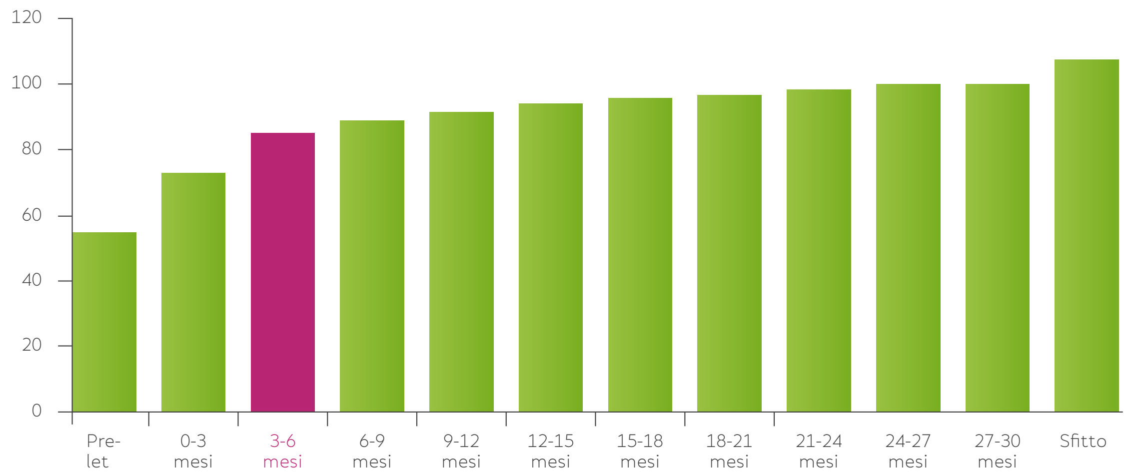
87 Data Source: Ibis world report, top ten fastest growing industries

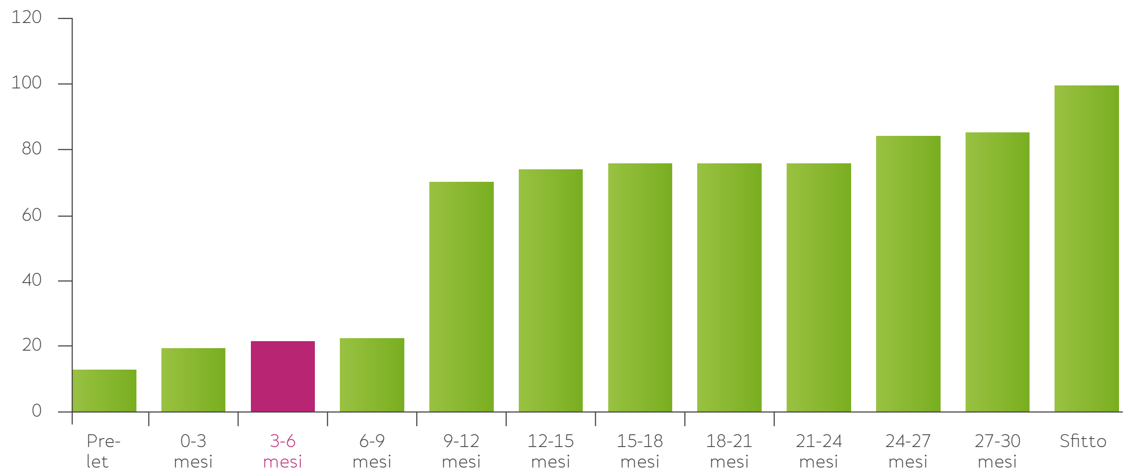
88 Data source: EeMAP - Energy Efficient Mortgage Action Plan (https://eemap.energyefficientmortgages.eu/)

89 Data source : «Green Building Value and Trend» –Rebuild, CBRE, GBCI, October 2018.



The same study also provided a positive response also in relation to the absorption times for certified properties, compared to 80% of the buildings leased within six months, against a percentage of less than 13% for similar properties that had not followed a similar process .The main reasons behind these choices are connected to various advantages, in addition to energy saving, they include the healthiness of inhabited environments, the reduction of water consumption, waste management (both during construction and property management).), greater integration with accessibility and transport, substantial greater attention to hydrogeological structure, the protection of biodiversity, economic and social quality, circular economy and sharing economy logics.



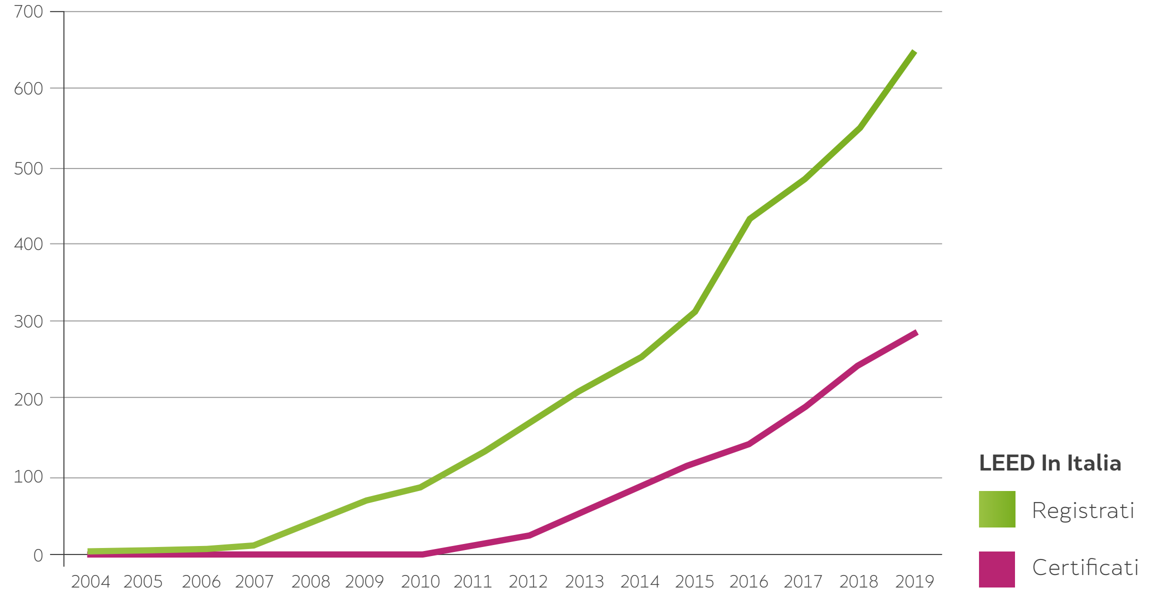


3. Green Building main trends in Italy

The confirmation of the growing ability to deal with the energy-environmental protocols of the national supply chain is evidenced by the increase in buildings certified and registered for certification. In Italy since 2006 there has been a steady growth in the application of rating systems.

The graph shows, for example, the more than linear growth in the number of buildings registered overall for certification with the LEED® protocols (blue line) and the trend over the years of the buildings that have achieved certification (pink line) among them.[90]

90 Data source: USGBC – GBCI 2019.

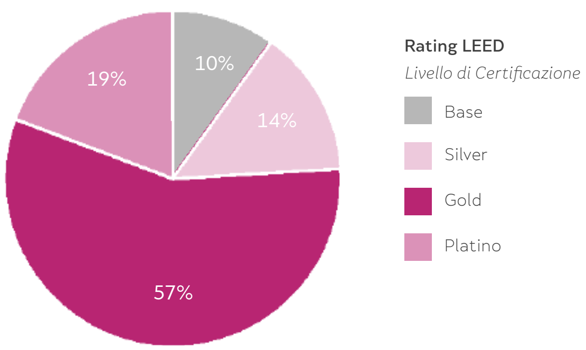


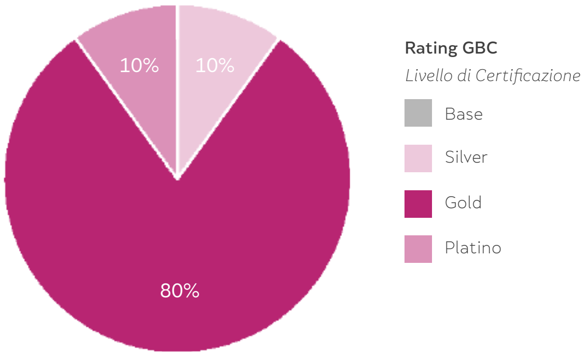
At the end of 2019, the number of buildings certified in compliance with the LEED®, BREEAM®, WELL® and GBC® schemes total 544 buildings and other 443 are registered for the certification phase.
It is interesting to note the level of certification achieved by these buildings is in most cases outstanding: 76% of LEED® certified buildings in Italy have reached the GOLD or PLATINUM level[91]; 90% of buildings certified with GBC® rating systems have reached the GOLD or PLATINUM level.[92] With regard to buildings certified with BREEAM® ratings, 53% are Very Good or Excellent.[93]

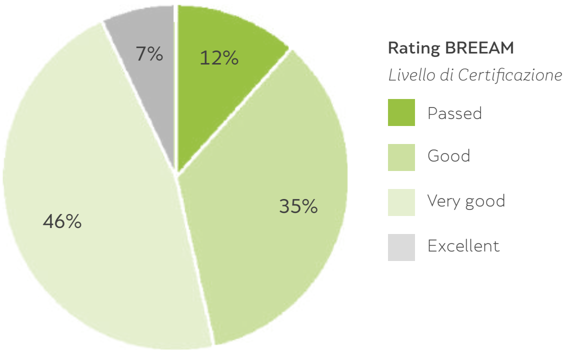
91 Data source: USGBC – GBCI 2019.

92 Data source: GBC Italia 2019.

93 Data source: BRE 2019.







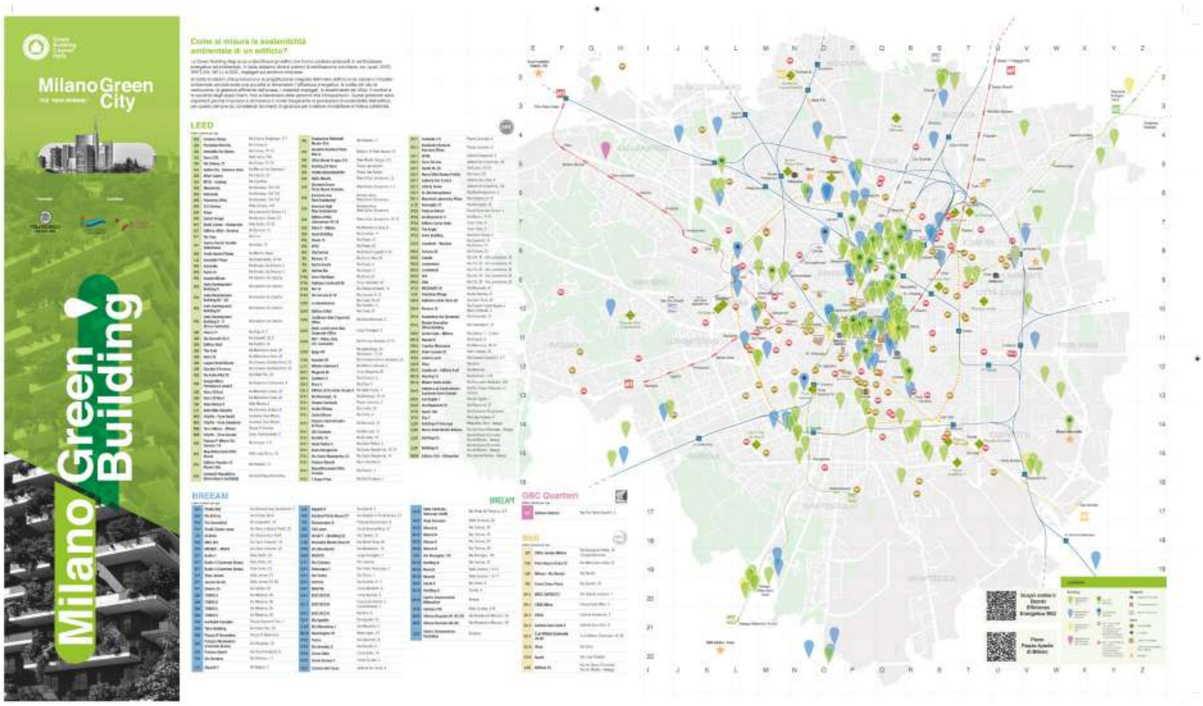
As new trend is to apply multiple certifications according to different ratings on the same building, combining protocols relating to building performance (such as LEED®, BREEAM® or GBC®) with protocols more focused on well-being (like WELL®), demonstrating the growing presence of skills available and capable of measuring performance with different instruments and, at the same time, attesting overall the excellent Italian design and construction qualities.

GBC Italia has recently drawn up a green building map of the for city of Milan[94] and City of Rome[95] to provide a simple evidence of the high density of green buildings present on some of the main national territories.

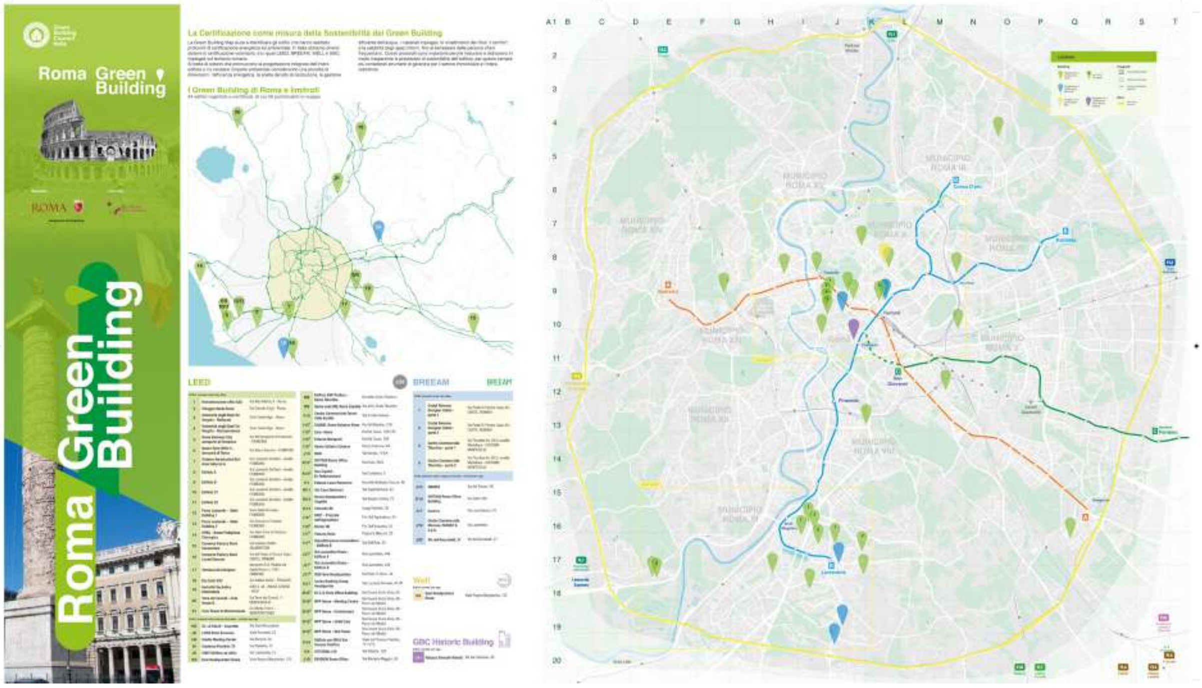
94 Data source: GBC Italia 2019 (http://gbcitalia.org/documents/20182/743399/GBC+Italia+_Milano+Green+Building.pdf

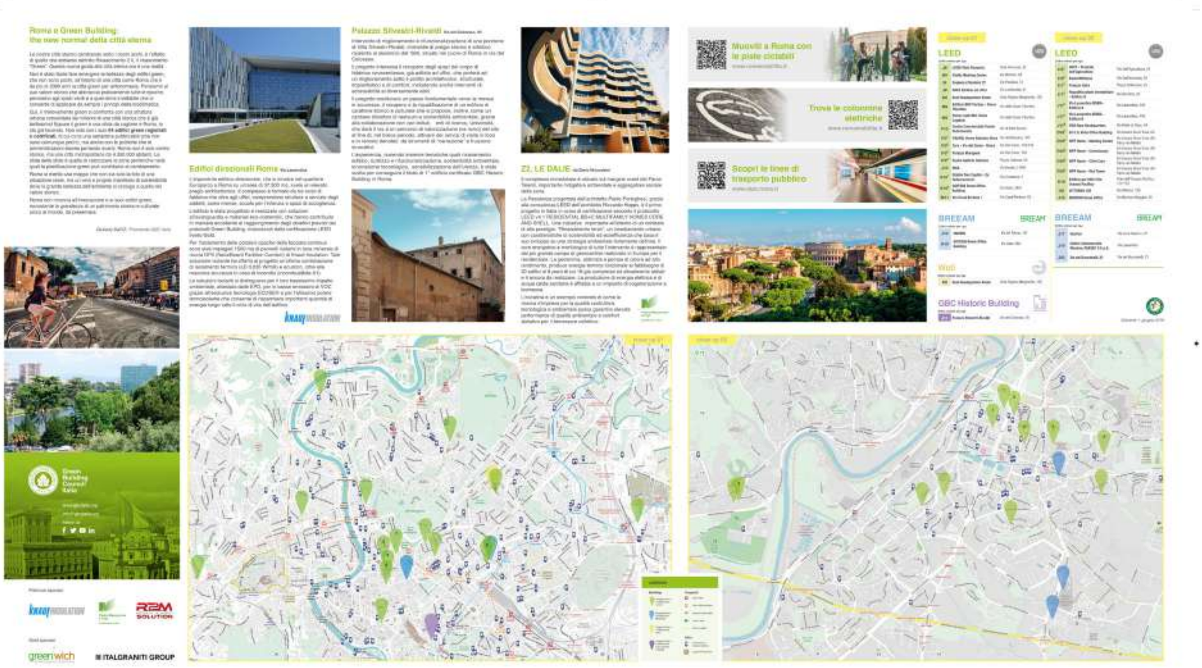
95 Data source: GBC Italia 2019 (http://www.gbcitalia.org/documents/20182/947702/GBC+Italia+-+Roma+Green+map.pdf).

Milano Green Map



Roma Green Map





III. Partnership is the new Leadership, also in Italy

The "certifiable quality of the intervention" is no longer a niche issue even in Italy, but an indispensable condition for attracting investments from investors and companies whose spending power will be increasingly tied to the search for safe investments.

Urban and territorial regeneration is an area where joint public and private action can develop significant economic and social benefits. This area in Italy has an additional value represented by a large presence of "historic buildings". If we consider the composition of the Italian building heritage, over 30% of the real estate assets was built before 1945 and constitutes a particular area of interest in relation to both sustainability, restoration and conservation interventions, covering a great historical heritage - witnesses.

In this context, Italy plays a leadership role in Europe with a large number of assets among certified and registred and this thanks also to the constant action carried out by the Green Building Council Italia (GBC Italia), a non-profit association member of the World Green Building Council (World GBC). Since 2008 GBC Italia has disseminated the "culture of sustainability" in the building and real estate sector, providing both an international contribution, dealing with the regionalization and introduction on the market of energy-environmental protocols developed internationally, and an original contribution through the definition of "native" protocols built on the needs of the national market. In this sense, the "GBC Historic Building®" protocol deserves a particular mention, which aimed to provide an answer to the sustainable restoration, combining the internatioal environmental issues of LEED® protocols with cultural ones specific to regeneration and restoration practices.

The entire construction chain participates in the GBC Italia association and, thanks also to the agreement signed with Re-MIND, the dissemination of good practices of sustainable development has also expanded to the real estate sector. Although many steps still remain to be taken in Italy, this agreement provides a strong value and represents a new partnership for the promotion of Italian qualities.

Partnership is the new Leadership.

Chapter VII

The real estate market

(by Ernst & Young Advisory S.p.A)[96]

Overview

In 2019 the global volume of transactions in the Italian real estate non-residential market reached €12,3 bn, with an increase of 45% compared with the €8,5 bn reached at the end of 2018, higher than the historic maximum level recorded in 2017, equal to €11,1 bn. The second quarter of 2020 recorded investments for ca €3,9 bn, with a decrease of 24% compared with the second quarter of 2019, which experienced investments for €5,2 bn. Out of the total investment value of the second quarter of 2020, in terms of global amount, the office sector is the most important asset class, with a market share of 46%, followed by the retail sector (23%). It is important to notice that amongst the transactions of the second quarter of 2020 it is included in the retail sector the one of ca €435 mln paid by Unicredit S.p.A. for the acquisition, from the minority shareholders, of a shareholding of 32,5% of the equity of the company La Villata S.p.A., a real estate company controlled by Esselunga S.p.A. and owner of most of the retail units of the Group (deal of the first quarter of 2020). The second quarter of 2020 sees a small decrease compared with the second quarter of 2019; it should be taken into account the consequences of the so called "COVID-19 virus emergency" are not totally recorded at the end of the first half of 2020 and it will be important to see the next quarters to have a clearer picture of the situation. The results at the end of the first quarter of 2020

96 EY|Assurance|Tax|Transactions|Advisory
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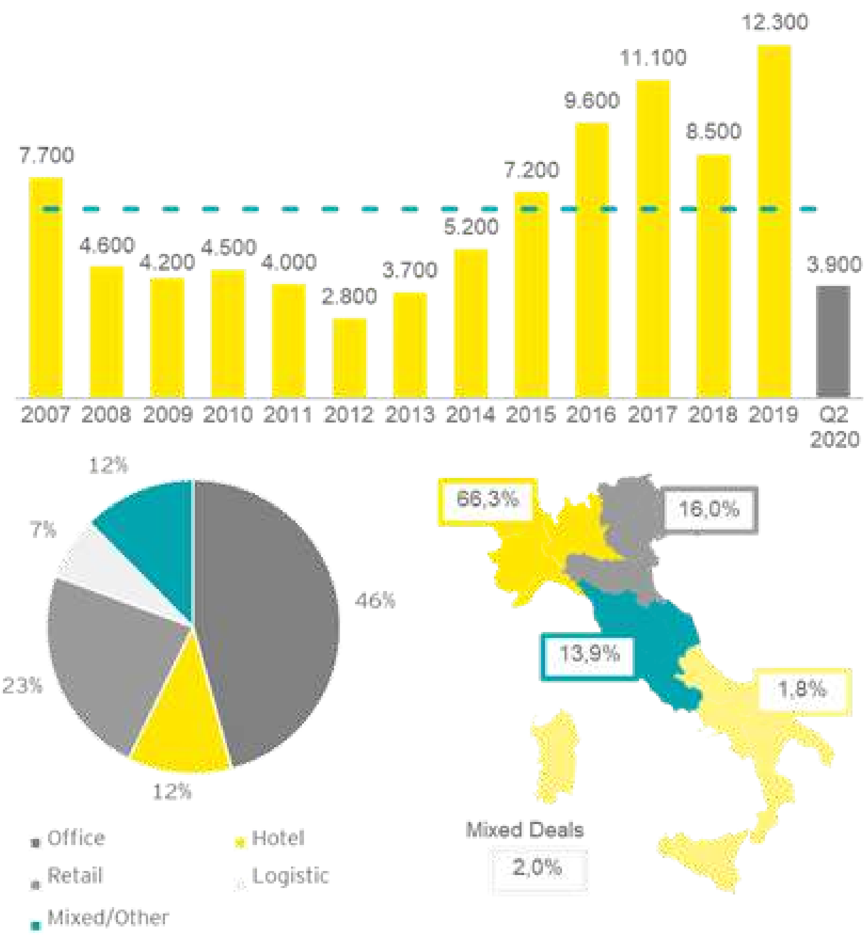
show anyway better performances than what it was expected at the beginning of the lockdown period, thanks mainly of the carry-over of deals started and negotiated before and entered into the execution phase now. With reference to the last five years average (2015-2019), the foreign investors' market share is going down from 70% to 45%; the domestic investors' component played a key role during the last six months (55%), mainly for some large deals related to the office and retail sector asset classes. At national level, the "north-West area" recorded the highest number of transactions (ca the 66,3% of the total at national level), followed by the "north-East area" with 16,0%, then the Center with 13,9%. The 2% is related to "mixed deals" (no specific location, spread throughout the Country), while South is the last one with 1,8%.

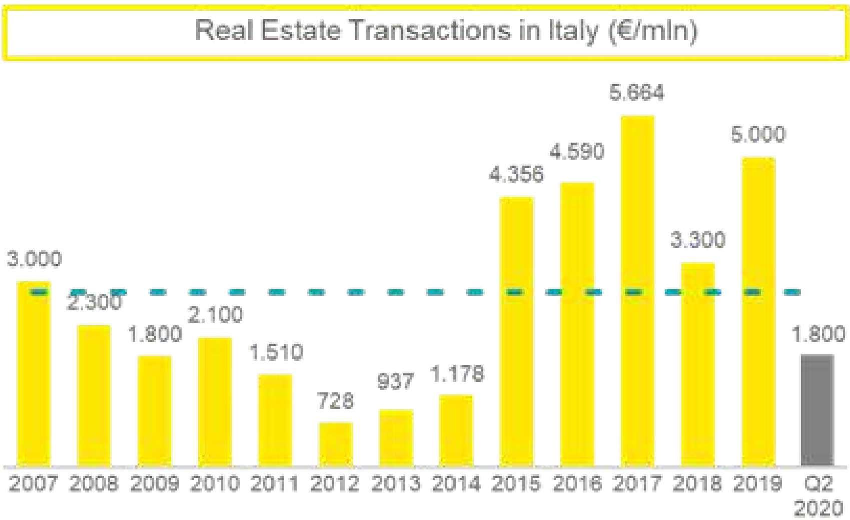
Real Estate Transactions in Italy (€/mln)



Source: EY analysis on public data

The office sector

The office sector is the most important asset class of the 2019, with a total amount of ca €5 bn of transactions, almost twice of what done in 2018. The total investments of 2019 are more than 50% of the last ten years average, equal to €2,6 bn. During the second quarter of 2020, this sector is the asset class with the largest market share, with a total amount of €1,8 bn of investments (46%), with a small increase compared with the same period of 2019, showing it is still the most important asset class for the real estate players. The office sector recorded many deals agreed before the so called "COVID-19 virus emergency" and signed and executed during this semester. There is still a pipeline of new deals, even if the slowdown of the market is quite clear, but not for core transactions; Milan is the most important location with a market share of 72% of the total amount of investments (€1,3 bn), while Rome is at €280 mln. The end, or anyway the reduction of the emergency is still not helping in having a clear picture on what will happen to the take-up and the amount of space the occupiers will ask in the near future: it will be important to wait for further few months or, most probably, till 2021 in order to have a better view of the assessment of the investors on the vacancy risk of the assets. It is anyway important to notice a slowdown of the search for new spaces which, combined with the delays related to the lockdown period, brought to a reduction of the take-up rate of 31% in Milan and of 70% in Rome for the first half of 2020, compared with the same period of 2019. The investment yields in the second quarter of 2020 remain stable compared to the first quarter of 2020 in all locations, with CBD at 3,30% in Milan and 3,70% in Rome.



Milan KPIs

KPIs	H1 2019	H1 2020	Q2 2020
Vacancy Rate (%)	10,3	9,9	9,9
Take-up (sm/000)	237	161	61
Prime Rent (€/sm/y)	580	600	600
Average Rent (€/sm/y)	302	280	343
Prime Net Yield (%)	3,40	3,30	3,30
Secondary Net Yield (%)	5,00	4,80	4,80

Rome KPIs

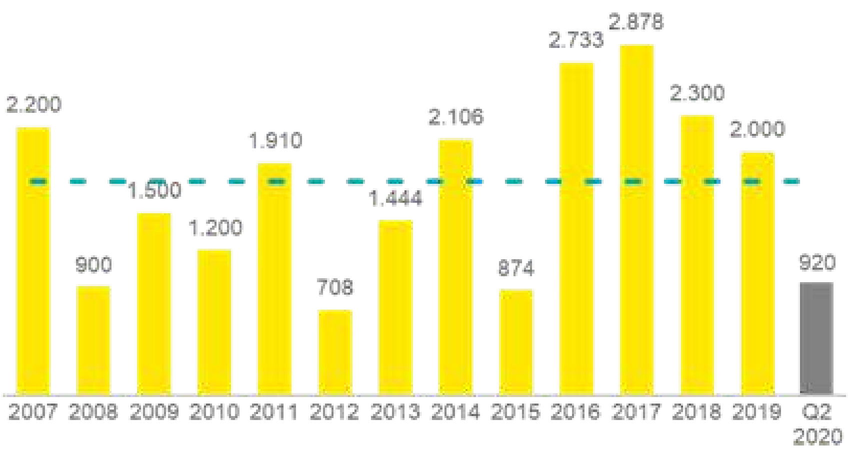
KPIs	H1 2019	H1 2020	Q2 2020
Vacancy Rate (%)	9,0	8,9	8,9
Take-up (sm/000)	171	46	19
Prime Rent CBD (€/sm/y)	430	450	450
Prime Rent "EUR area" (€/sm/y)	350	350	350
Prime Net Yield (%)	3,75	3,70	3,70

Source: EY analysis on public data

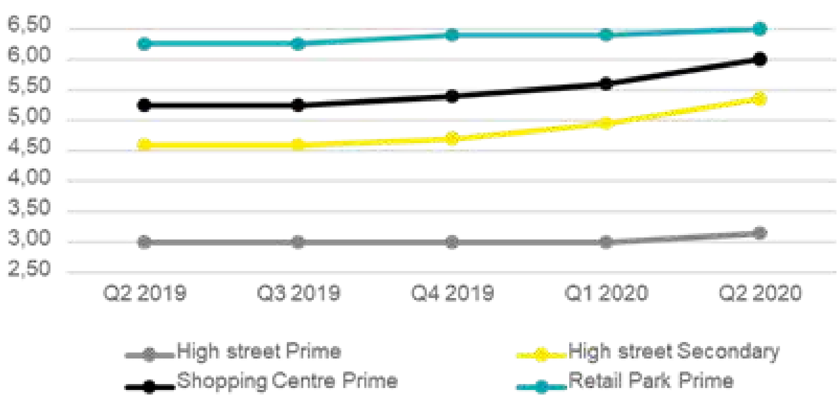
The retail sector

The retail sector, in Italy, experienced a stable performance during the last three years; anyway, in 2019, a decrease of 13% of the transactions was recorded compared to 2018, with a total investment volume equal to €2 bn, with the increased of the e-commerce sector which is probably the one with the highest impact on the overall retail market. In the second quarter of 2020, the total retail volume reached ca €920 mln of transactions (23% of the total), with an increase compared to the second quarter of 2019 mainly linked to one large deal done at the beginning of the year, equal to ca €435 mln, paid by Unicredit S.p.A. for the acquisition, from the minority shareholders, of a shareholding of 32,5% of the equity of the company La Villata S.p.A., the real estate company controlled by Esselunga S.p.A. and owner of most of the retail units of the Group. The investors are currently extremely conservative in the analysis of the retail investments, in view to gain a better knowledge of what could happen as a consequence of the so called "COVID-19 virus emergency", in terms of re-openings and performances. Anyway, the forecasts are still quite positive, also thanks to the on-going restructuring processes of some of the large Italian retailers. The vacancy rate is the main risk factor today and is bringing property owners to negotiate with the tenants the economic incentives, with the risk to bring down headline rents, currently stable since the beginning of the year for both high-street and shopping malls spaces. In the second quarter of 2020 the entire retail sector experienced an increase of the yields driven by the increase of the expected risk, either in terms of tenants' affordability or asset liquidity. Property yields are increasing for the "prime high-street positions" at 3,15% (3,00% in the first quarter of 2020), for the "secondary high-street positions" at 5,35% (4,95% in the first quarter 2020), for "prime shopping Centers" at 6,00% (5,60% in the first quarter 2020) and for "prime retail parks" at 6,50% (6,40% in the first quarter 2020).

Real Estate Transactions in Italy (€/mln)



Property net yields evolution of the retail sector

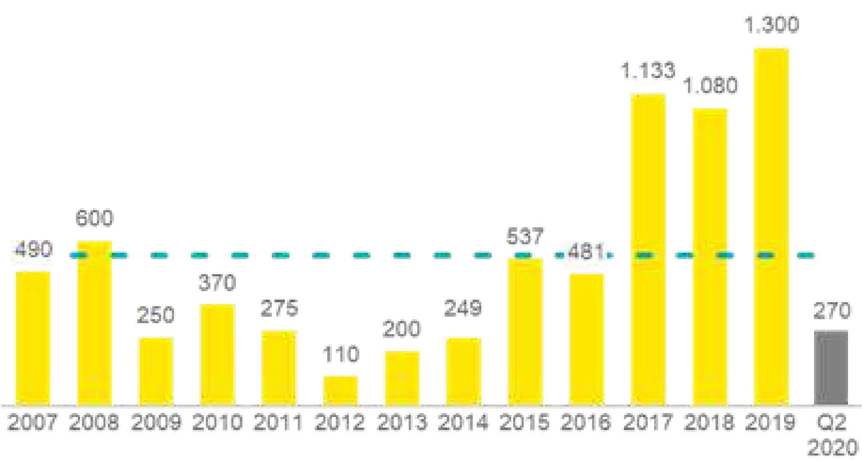


Source: EY analysis on public data

The logistic sector

In 2019, the logistic sector accounted for the 11% of the total non-residential transaction volume, with an amount equal to €1,3 bn, with a 20% increase compared to 2018, higher than the previous two years. The "e-commerce component" is the one driving more the entire sector, either thanks to the increased demand of spaces, or thanks to the implementation by the retailers of the so called "omnichannel" strategies. During the second quarter of 2020, the logistic sector recorded an amount of €270 mln of investments (7% of the total), in line with the same period of the previous year. Core transactions kept on being the most favorable target, even in the second quarter 2020, also thanks to the leverage, still supportive (as "pre COVID-19 virus situation") for deals with a low risk profile. The appetite of investors (mainly foreign) is still very high for this asset class, which is considered today as one of the most important targets in the real estate market. Even during the lockdown period new deals have been launched and are increasing the already large pipeline of the second half 2020. The vacancy rate has been being stable since the beginning of the year (2,6%) and slightly lower than the one experienced in 2019 (2,8%), with a take-up rate still stable at 550.000 sm, despite the lockdown period and the uncertainties linked to the spread of the "COVID-19 virus", slightly lower than the second quarter of 2019. The area of Milan is still the most attractive one with ca 80% of the transactions of the second quarter 2020, followed by Bologna (15%). Prime Rent (56 €/sm/y for Milan and Rome), Secondary Rent (46 €/sm/y) and Prime Net Yields (5,2%) stable compared to 2019.

Real Estate Transactions in Italy (€/mln)

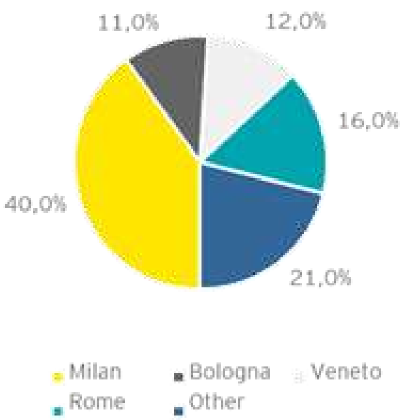


Main KPIs

KPIs	2019	Q1 2020	Q2 2020
Vacancy Rate (%)	2,8	2,6	2,6
Take-up (sm/000)	1.875	330	550
Prime Rent Milano (€/sm/y)	56	56	56
Secondary Rent Italy (€/sm/y)	46	46	46
Prime Rent Roma (€/sm/y)	56	56	56
Prime Net Yield (%)	5,2	5,2	5,2

Source: EY analysis on public data

Pipeline 2020-2021



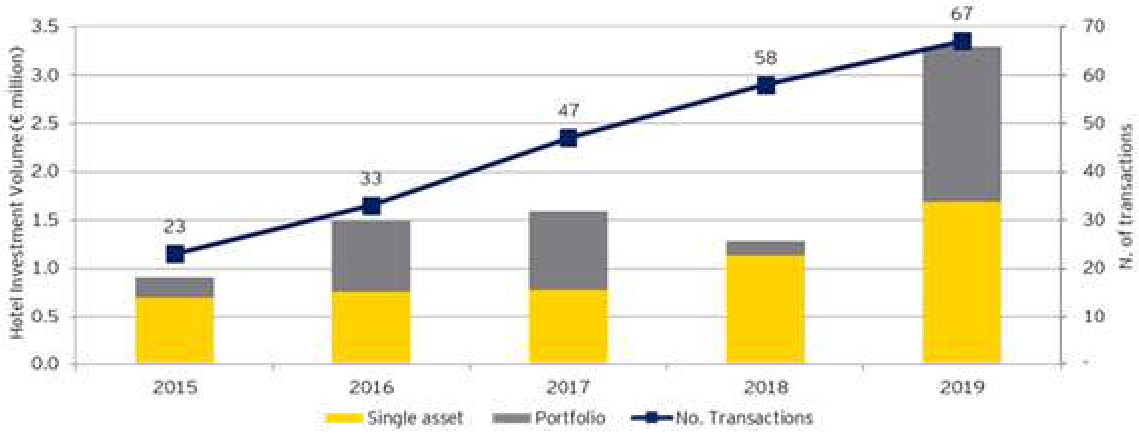
Focus on the “hospitality sector”

+158% on the Transactions' volume	Top Deal 2019	Cross-border Investments	Main market 2019
€ 3,3 bn	**Ex BNL Rome**	**€ 2,7 bn (83%)**	**Venice (€ 750 mln)**
The transactions volume of the Hotels' deals landed at € 3,3 bn in 2019, recording an increase of 158% compared to the previous year, pushed mainly by Belmond Hotels (7 assets) and Castello (16 assets) deals, plus several trophy assets in Rome and Venice	BNL, Italian financial institution, sold to Antirion SGR its former headquarter in Via Vittorio Veneto in Rome for a value of € 190 mln. The asset will be converted into a top luxury hotel of 160 rooms	Cross-border investments are the 83% of the total Transactions' volume, leading to an addtitional decrease of the activity of the Italian buyers (compared to 45% in 2018)	Venice overcome Rome as the most appealing location for the Investors in the hospitality sector, recorded a volume of investments equal to € 750 mln (23%), followed by Rome (16%), Milan (9%) and Florence (7%)

Transactions’ volume

The 2019 recored the highest level ever reached by hotel transactions in Italy, with a record of €3,3 bn of investments, 67 deals, 91 hotels and 11.400 rooms which moved to another owner last year. After quite a weak 2018, the Italian hospitality market increased by 158%, thanks to trophy assets and large portfolios deals, amongst all Belmond Hotels by LVMH Group with 7 assets in Italy, the “Castello Portfolio” (16 hotels, 1.800 rooms) bought by Oaktree Capital and other transactions in Venice, Rome and Capri. The hotel Bauer in Venice is the top single-asset deal and the former BNL headquarter in Rome the largest hotel conversion in economic terms, while the Capri Palace recorded the highest price per room, higher than €1,5 mln. Moreover, 40% of the investments is related to touristic locations: Belmond and Castello Portfolios and top single-assets deals in Capri (Capri Palace Hotel, 69 rooms) and Taormina (Mazzarò Sea Palace and Atlantis Bay, 171 rooms).

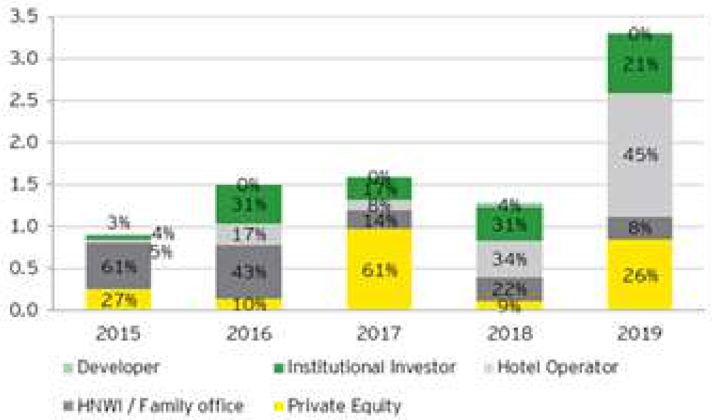
Hotels’ investment volume in Italy (2015-2019)



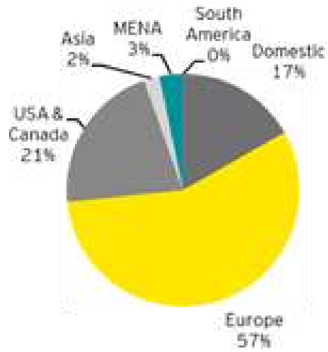
Investors’ profile

The acquisition of Belmond increased the market share of transactions done by Hotels operators, 45% in 2019, followed by Private Equity funds, mainly US and European, which confirmed the appetite for the asset class with 26% of market share. Thanks of years of very low interest rates in Europe, the Institutional Investors looking for property returns kept on showing growing interest for the Italian hotels in 2019, with an increase of the volume of transactions signed by Institutional Investors (both National and International) with main focus on yielding properties (core/core+) for an amount of €700 mln (+ 70% compared to 2018), which confirms the shift from an “opportunistic/high yielding approach” towards a long-term approach on the hotel investments into the Italian market. Domestic Investors represent 17% of the total volume of 2019 transactions, equally distributed amongst existing and new developments deals, while 12% only of the International buyers decided for a new hotel development.

Investors' profile (2015-2019)



Investors' nationality (2019)



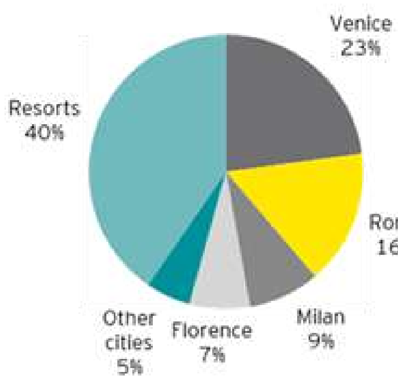
Main destinations

Venice overcomes Rome as the most appealing destination for the Hotel Investors, recording an investment volume of €750 mln, equal to the 23% of the 2019 total invested amount, thanks to large deals such as the Belmond Cipriani, the Bauer and the MTK development in Mestre (VE). Rome is in the second position (16%) despite the increase for the third consecutive year of the investment volume and the highest number of deals, followed by Milan (9%) and Florence (7%). Venice is the most expensive location as per value per room (more than €430.000 per room), followed by Rome (€365.000 per room), Florence (€345.000 per room) and Milan (€200.000 per room). The so called "resort destinations" recorded the 40% of the total transaction volume with important deals in the 5* and 5* luxury segments, including the hotels in the Belmond and Castello portfolios, Capri (Palace Hotel) and Taormina in Sicily (Atlantis Bay and Mazzarò Sea Palace).

Hotel investments by destination (2019)

	N transactions	N rooms	Value (€/mn)	Var. (% yoy)	Average size (€/mn)	Average price/room (€/k)
Venice	5	1.735	750	425%	154	430
Rome	10	1.427	520	5%	52	365
Milan	8	1.387	280	29%	35	200
Florence	4	664	230	87%	56	345
Other cities	21	2.809	180	35%	9	65
Resorts	19	3.377	1.330	709%	70	395
Total	**67**	**11.399**	**3.300**	**158%**	**49**	**290**

Hotel investments by destination (2019)

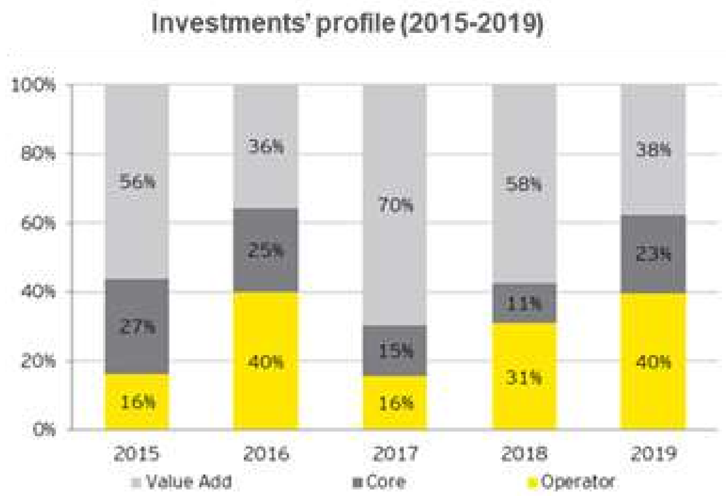


Letting status

The transactions under vacant possession regime (empty asset, without tenant/hotel operator) remain the preferred option for the investors in Italy, with 67% of the total transactions in 2019, compared with 45% in 2018 and 58% in 2017. This is the case when the acquisition of a hotel is performed directly by a hotel operator (owned-operated) or for investments with a value-add approach, where the buyer is working alongside an operating partner, while the acquisitions of properties/assets to be refurbished/developed are under vacant possession regime by definition. Moreover, the acquisitions under vacant possession regime implies normally additional investments for the restructuring/refurbishment of the hotel, leading to an increase of the total invested volume; the total forecast for hotels under restructuring process is for additional investments in the region of €560 mln. To be noted an increased interest compared to 2018 for rented properties (the less risky approach, mainly related to Institutional Investors) which accounted for €520 mln, compared to €170 mln of the previous year; the transactions of hotels under Management Contract agreements saw a sharp decline within the last five years. The transactions recorded in the period 2013-2017 were more related to existing and running hotels managed by Starwood/Marriott in Florence, Milan, Venice and Rome; there is not a hotel transaction with a Management Contract agreement in place with an International brand recorded in the last two years

Investments' profile

The increasing definition of Italy as one of the most important hotels market has been confirmed also thanks to the analysis of the characteristics of the investments' targets: while till three years ago more than 70% of the transactions had a value-add approach (buy, refurbish and sell), in the last two years such type went down till 38% in 2019, thanks to an increasing appetite for core deals. On top of that, the value-add investments done in the past will probably lead to an increasing number of newly opened/restructured hotel to be put into the market in the years to come (core assets).



Main transactions (price higher than €60 mln)

	Owner	Location	Seller type		Buyer type		Stars	Rooms
Q2	Belmond Italian Hotels	Various	Hotel operator	BMU	Hotel operator	FRA	5	461
Q2	Castello Portfolio	Various	Institutional Investor	ITA	Private equity	USA	3-4-5	1.810
Q1	The Bauer	Venice	Family office	ITA	Private Equity	USA	5	221
Q4	Former BNL Headquarters	Rome	Institutional Investor	ITA	Institutional Investor	ITA	5	159
Q4	MTK Mestre Portfolio	Venice	Developer	AUT	Institutional Investor	GER	3-4	794
Q2	Proposed 25th Florence	Florence	Developer	GER	Institutional Investor	GER	5	172
Q2	Capri Palace	Anacapri	Hotel Operator	TUR	Hotel Operator	UAE	5	69
Q2	Hotel Ambasciatori Palace	Rome	Hotel Operator	ITA	Private Equity	USA	5	152
Q3	Hotel Michelangelo	Milan	Hotel Operator	ITA	Family Office	ITA	4	306
Q2	Mazzarò Sea Palace + Atlantis Bay	Taormina	Family office	ITA	Hotel Operator	ITA	5	171

Hotels' performances

According to AICA-Confindustria, in the period "October 2018-October 2019" Italy recorded an increase in the RevPAR (+5%), mainly driven by the increase in the ADR (+3%). This increase is mainly related to Venice (+8,6% - linked to the art exhibition of "Biennale"), Milan (+9,5%) and Florence (+5,2%), while Rome is experiencing a general slowdown with a very low increase (+1%) in the RevPAR. After the high increase recorded in 2018, a lot of secondary locations recorded a decrease in the hotels' performances, with the worst ones in Bergamo (-3,1%) and Catania (-2,8%), while Bologna and Turin are going on with a positive trend. The first four markets in Italy are confirming their focus on corporate and leisure demand, thanks to a general economic recovery, followed by the most important secondary locations in the north of Italy (mainly Bologna and Turin).

Towns	Occupancy Rate (%)	ADR (€)	RevPAR (€)	RevPAR 2019 vs.2018
Venice	72%	238	172	8,6%
Rome	72%	175	127	1,0%
Milan	71%	153	109	9,5%
Florence	75%	145	108	5,2%
Bologna	67%	100	67	11,4%
Naples	70%	96	67	-0,4%
Catania	71%	90	64	-2,8%
Turin	69%	92	63	2,7%
Genova	68%	89	61	-2,0%
Bergamo	76%	77	59	-3,1%
Padua	70%	69	49	-1,1%
Italian average	**71%**	**155**	**109**	**5,0%**

Data as per October 2018-October 2019

Source: AICA-Confindustria

Chapter VIII

Culture, tourism and economy

(by Massimo Cimatti, CEO of Agedi – Managing Adviser to Cultural Tourism from Re Mind)

"We must find substantial culture. If we find it, all those who are hungry will take it. " (Lev Tolstoj)

Culture enhances tourism. Tourism enhances the territory. The territory enhances the Country System.

Italy challenges the world elevating to the 'country system' its values and its culture, simply enhancing its history and identity, made of small local realities and excellence in food and traditions, widespread throughout the whole territory.

Culture and creativity are one of the primary engines in advanced economies[97].

Nowadays, the cultural production system comprises cultural industries (such as media, films, videogames, music, books and publishing), creative industries (such as architecture, communication and design), performing arts and visual arts (performances, conferences and exhibitions), the preservation and protection of national treasures possessing artistic and historic value.

As far as Italy is concerned, 6.1% of the Italian wealth is achieved through the cultural production system, equal to 95.8 billion euros, employing 1.55 million people (even without taking into account the employment opportunities in the other sectors of our economy), which corresponds to 6.1% of the total employed population in Italy.[98]

Beyond the boundaries of cultural and creative industries, tourism is undoubtedly the sector that benefits the most from the thrust of culture, with 38.1% of the domestic tourism

97 The cultural sector contributes in a decisive way to the GDP and to the employment rate in the EU territory (1.2 million businesses, 8.7 million people employed in the cultural and creative industry, equal to 3.8% of workforce in the EU Member States). Culture and education are, moreover, the 11th priority of the Juncker programme, which calls for an investment of 500 billion euros in favour of the Member States.

98 2019 report "Io sono cultura" by Symbola foundation drawn up with Unioncamere. Culture has also a multiplier effect of 1.8: for every euro produced by the cultural industry, 1.8 euros are 'activated' in other sectors, equal to 169.6 billion euros, for a total amount of 265.4 billion euros produced by the whole culture industry, which represents 16.9% of the national added value.

expenditure boosted by culture.[99]

Moreover, the focus on cultural tourism growth is also strengthened by the awareness that the economic benefits deriving from the tourist flows with mainly cultural reasons are greater than the ones regarding trips in other kinds of destinations.

Over the years, we have not had enough awareness that the anchor of the Italian tourist system lies precisely in the outstanding historic, artistic, cultural and environmental heritage - which is unique and unrivalled. This heritage is not only situated in the renowned city of Rome, Milan, Florence and Venice, but it covers the entire country.

In fact in Italy, over the past decades, culture has played a subsidiary role compared to traditional tourism, due also to the shortcomings in national strategic policies for the development of the cultural and creative industry. And all that with the perverse effect represented by the "musealization" of art heritage cities which, turning into lifeless funfairs, have gradually lost cultural vitality since they have reshaped their urban and social fabric in order to unconditionally adapt to tourist needs and expectations.

Culture is the oil of Italy: our wealth, our engine, the key to our future, our challenge to the world, aware that knowledge, culture, urban development and territory can play a fundamental role in reinvigorating local networks.

We need to show humanity what belongs to us, what the whole world envies us, or what the whole world still does not know. The low foreign tourist flows in cities that are rich in culture and gastronomic traditions such as Mantova, Ferrara, Brescia, Todi, Cisternino, Palermo and Bologna confirm that the potential of these places is still unexplored, often again due to the lack of a tourist offer which is adequate for the foreign market.

To understand the huge potential of such territories and/or geographic areas, which our country has still not exploited, it is sufficient to recall the success of some examples of the last years, often facilitated by new routes and new opportunities offered by the digital media. Such as, for example, the constant increase in foreign tourists in Apulia in the last 12 years, mainly referred to tourists coming from countries or cities which are directly linked to Apulian airports : Apulia has not missed this opportunity, providing a top-quality gastronomic and tourist offer and up to the tourists' expectations, with positive economic effects for the local development. In addition, the film 'The Passion of the Christ' (Mel Gibson, 2002) has been enough to show the world the 'Stones of Matera' and immediately increase the tourist flows in this city, which has earned Matera the title of European Capital of Culture in 2019.
The positive relationship between enterprise and culture constitutes a decisive factor for the valorisation of our heritage and for the growth of territories in terms of social development and economic impact as well as for the promotion of the Italian excellence in this sector.

However, it is necessary to implement concrete policies and processes capable of connecting culture to social innovation and economic development of the territories, by experimenting models that can integrate protection, valorization and management of the cultural heritage - above all in Italy, which is a country characterized by a widespread heritage - transcending self-absorption and the existing national fragmentations.

A common and uniform vision, an organisational flexibility and a nature which is not only (or not necessarily) speculative can plot a positive and overwhelming path, giving Italy all its glory.
It takes little to do it involving the right stakeholders:

- a major player in economic terms, with culture and innovative capacity in his DNA (for example, an important publishing group), which could develop, on the Italian territory - starting from the aforementioned cities -, a 'culture-theme' hotel chain, in all the following possible interpretations: book hotel, king hotel, inventor hotel, etc.

- a social/institutional authority

99 2019 report "Io sono cultura" by Symbola foundation drawn up with Unioncamere. This figure is likely to further increase if rightfully exploited, above all experiential tourism, which has grown strongly in recent years.

with global political vision, for which culture is part of its sense of existence. Such stakeholder could be identified, for instance, in the diocesan system, owner of outstanding real estate assets, widespread throughout the whole territory

- a real estate provider such as Agedi which, beyond the necessary technical-professional skills, possesses a global vision, an innovative approach and a value-driven nature, thanks to its own specific skills in property management and in the implementation and execution of multiannual and strategic valorisation plans.

Therefore, politics will have to follow this process because the local territories, and thus the population, will benefit from the development triggered by such worthy process.
Finally, we should not underestimate the economic/attractive reharmonization with the 'sovereign' tourist spots, which will have to realign their service offerings due to new in-house competitors.

AFTERWORD

by
Paolo Crisafi President of Re Mind

“Mattone di Stato” (literally, overnment brick) is the well-established definition that indicates the complex of public real estate assets and the operations aimed at enhancing and selling at least a part of this conspicuous patrimony.

After years of announcements and good intentions, there is no denying that something is moving, even if clarity is needed. First of all, we do not yet know exactly the precise market value of the complex of public real estate assets. If, at a first glance, the most substantial portion would seem to be that of the central bodies, ministries and social security bodies, such as INPS, which have given rise to the famous “securitization” operations in the past, however not with the optimistic expected results, in reality the great mass of public buildings, about 80%, belongs to local authorities (Regions, former Provinces, Municipalities). It would therefore seem reductive as well as approximate to say that the primary purpose of the sale of these properties may be to reduce the national public debt.

But even on the real perimeter of such assets there are currently uncertainties if it is true that the only comprehensive database on the subject, that of the Treasury Department of the Ministry of Economy, is still stuck with the 2016 data and cannot give value precise market for all public buildings, referring to an unspecified asset value of 284 billion, again for 2016. The methodology applied for the valuation - which would seem to be inspired by public accounting criteria rather than best market practices (such as RICS red book) - is not disclosed.

Further uncertainty was also ntroduced by the budget law 2020 on the private buildings leased to public administrations. In order to mitigate the negative effects of this rule, it is desirable to introduce the obligation to allocate the funds deriving from the reduction of the fees in plant adaptation, safety, efficiency and energy requalification of the same properties.

The operators of the private sector, who have found a new and valid reference point with Re Mind Industrial and Manufacturing Supply Chain, hope that the Government, the Institutions and the Bodies in charge can start, after many proposals and announcements, a decisive finalized action, on the one hand, the safety of the real estate assets and related systems with eco-sustainable and environmental materials and methods, on the other hand, to give order and organicity to the entire real estate sector, also through the growing involvement of local authorities, of the Regions, the first sometimes reluctant to seize all the opportunities offered by “state federalism”, completing a finally exhaustive work of simplification and rationalization of all the normative matter.

Re Mind considers these contributions to be real prerequisites to attract investments, including foreign ones, accompanied by a necessary process of tax exemption in some sectors as well as by the coordination of the incentives currently active on the “real estate system”, which otherwise are less effective if taken on an individual basis. A strong impetus for growth canderive from the measures submitted by Re Mind regarding access to the SIIQ instrument by foreign REITS and the introduction of open ended real estate funds. An industrial policy for the public and private real estate, shared between the government and opposition forces with the Construction and Real Estate supply chains in order not to miss the appointment with the economic recovery and the renewed development of the country.

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A lifelong sustainability advocate with an over 20-year experience including sustainable buildings and products, green rating tools and international certification schemes. An extensive professional path acquired in leading national and multinational firms taking lead roles in a wide range of high-profile green projects. Member of various scientific committees and boards, including: Montagne Italia Foundation; Federesco International Partnership; ANPAR; Remtech Expo; member of the teaching staff of the PhD course in Environmental Sustainability and Well-Being of the University of Ferrara – Italy; President of the Advisory Board of Ongreening.com, the international Platform for Green Building Professionals.

BIBLIOGRAPHY

Ministerial Decree No. 30/2015
Law No. 86/1994
Legislative Decree No. 58/1998 (Testo Unico della Finanza, “TUF”)
Testo Unico delle Imposte sui Redditi
Legislative Decree No. 351/2001
D.P.R. n. 131/1986
Legislative Decree No. 223/2006
Circular Letter No. 11/E del 9 marzo 2011
Legislative Decree No. 461/1997
Legislative Decree No. 78/2010
Legislative Decree No. 44/2014
Circolare Assogestioni n. 69/14/C del 2014
Legislative Decree No. 223/2006
Law No. 296/2006
Circular Letter No. 8/E del 2008
Circular Letter No. 32/E del 2015
Circular Letter No. 7/E del 2013
Circular Letter No. 36/E del 2004
Circular Letter No. 25/E del 2007
Law No. 724/1994
Circular Letter No. 3/E del 2013
Law No. 724/1994
Legislative Decree No. 138/2011
Law No. 130/1999
Legislative Decree No. 446/1997
Law No. 145/2018
Legislative Decree No. 34/2019
Law No. 130/1999
Circular Letter No. 8 del 6 febbraio 2003
Circolare Assonime n. 39 del 24 maggio 2000
Progetto mondiale asma, Global Initiative for asthma. Linee-guida italiane (2013)
Annuario Statistico Italiano 2009
Bruno Berthon e Philippe Guittat (2011), “Ascesa della città intelligente”
EeMAP - Energy Efficient Mortgage Action Plan
Ricerca «Green Building Valore e Tendenze» – REbuild, CBRE, GBCI, ottobre 2018
USGBC – GBCI 2019 Data
GBC Italia 2019 Data
Milano Green Map by GBC Italia
Roma Green Map by GBC Italia
“Un ambiente costruito sostenibile per l’Italia del futuro” GBC Italia Manifesto
LEED Rating System
GBC Home Rating System
GBC Historic Building Rating System
GBC Quartieri Rating System
GBC Condomini Rating System
BREEAM Rating System
WELL Rating System
BRE 2019 Data
Report 2019 “Io sono cultura” di Fondazione Symbola redatto con Unioncamere

CREDITS

Re Mind

It's s an association that contributes to sustainable environmental development and the safety of the population, investments, territories, cities, buildings and related plants.

It promotes knowledge, application and implementation of international and national good practices.

It organizes conferences, debates, events, initiatives, seminars, think tanks, studies, cultural events, exhibitions, shows, concerts, meetings aimed at improving knowledge and promoting the growth of the sectors of the Real Estate Chain. It places the well-being of people at the center and promotes the confrontation between government and opposition political forces, institutions and operators in the real estate chain

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