

The Importance of Regulatory Checks: The Italian Case



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Italy continues to attract much attention on the due diligence front, not only for its world economic and business role, but also because of the risks associated with conducting business in certain areas of the country, where ties to organized crime and corruption continue to represent an endemic plague, affecting both the political and business environment. New economic development opportunities in Southern Italy—the area more affected by Italy’s endemic problems—including recent oil discoveries and increasing opportunities in the renewable sector, recently called for a renewed attention to the due diligence process and its major obstacles/strengths.

Due to privacy laws, litigation records, both civil and criminal, are not publicly available. While media, both national and local, offer good coverage of major scandals and investigations as well as of litigation matters, the lengthy trials and the peculiarities of an obsolete and redundant judiciary system may make any risk assessment analysis more challenging. As a consequence, the due diligence analysis has discovered the importance of regulatory databases, which undoubtedly offer an important source of information on the corporate world. The following report discusses the Italian regulatory environment, specifically with regard to the nature and quality of information provided by the major regulatory agencies.

Italian corporate records are available through the local Chambers of Commerce. Records include information such as legal name, registered address, and an exhaustive description of the nature of the business. Unfortunately, no information regarding the principals, executive officers, shareholders, and incorporation date is provided. Directorship records, however, as well as information on shareholders, can be easily accessed by local sources. As for listed corporations, the National Commission for Companies and the Stock Exchange (CONSOB), an independent administrative body that oversees the stock market, publicly offers up-to-date information on the significant shareholders. In addition, CONSOB publishes all regulatory and administrative actions related to violations of trading or reporting rules, such as insider trading matters. Furthermore, this regulatory body approves all major transactions, such as mergers and acquisitions, of banks and other financial intermediaries. The website of the Italian Stock Exchange also provides financial reports and governance reports on publicly traded companies that help interested parties gain additional information regarding the shareholder structure and directors.

Although their role as the main guide for the national monetary policy has been eroded by the creation of the European Central Bank, national central banks in the EU maintain important regulatory and supervisory powers. The Bank of Italy periodically publishes Supervisory Bulletins containing relevant information regarding those entities that fall under the regulation of the central bank, such as banks, asset management companies, and collective investment schemes. Of particular interest, the Bulletins not only report major investigations and regulatory actions, but also detail information regarding administrative sanctions and actions involving board members and directors of financial entities, such as pecuniary fines for lack of internal supervision and control.

Italy’s Antitrust Authority maintains an extensive database covering all its decisions and rulings with regards to competition matters, mergers, and unfair commercial practices, including misleading and comparative advertising. All these records contain, in addition to a detailed analysis of the Authority’s decision and the nature of the matter, valuable information regarding the background and significant history of companies.

Finally, particular attention should be devoted to the main consumer association in Italy, CODACONS, whose website is an irreplaceable source of information regarding consumer complaints and regulatory actions against companies. The articles published on the CODACONS website may not be included in the main media search engines and, thus, represent a needed additional resource for the due diligence work. The quality and quantity of the information published by the Bank of Italy and other Italian regulatory agencies is certainly impressive, especially if compared to that of other European countries. Agencies such as the Ministry of Finance even offer scanned media articles in PDF format on pertinent topics/companies that can be used as an important tool to complete the information found in media/Internet checks.

The technical nature of the information provided by the regulatory agencies listed above certainly requires good familiarity with the Italian language and, especially, with the legal/bureaucratic terminology used by the public administration. While the accuracy of certain regulatory databases can certainly help the due diligence analysis, it is nevertheless true that it remains harder to find information on smaller entities, especially if they do not operate in highly regulated sectors, such as the financial one. Deficiencies in public databases can be corrected, however, by utilizing trusted local sources.



For more information, call, email or visit us online.

877.230.9082

rcs-contactus@kroll.com

www.kroll.com