

Recent developments concerning incentives to photovoltaic plants

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On 17 June 2014, the Italian Ministry for Economic Development (the “MISE”) has announced the issuance of a new law-decree (the “**Law-Decree**”) that will, among other things, reshape the incentives currently paid to photovoltaic plants.

The Law-Decree is expected to be approved by the Council of Ministers very shortly and to be published on the Italian Official Gazette shortly thereafter.

According to Italian Law, the Law-Decree will be immediately effective but will then have to be converted into law by the Italian Parliament (which is entitled to make amendments, integrations or to repeal it) within the following 60 days.

The aim of the Law-Decree is to reduce the impact of incentives to photovoltaic plants on end-users’ electricity bills (in particular for small and medium enterprises). To achieve this goal, the Law-Decree will introduce measures that will significantly affect the terms and conditions of the incentives currently granted to photovoltaic plants.

Please find below a summary of the main measures that are expected to be introduced by the MISE, based on the contents of the last draft Law-Decree published by specialized press.

1. Incentives re-modulation

The main measure included in the Law-Decree is a re-modulation of the incentives payable to the photovoltaic plants having a capacity exceeding 200 kW; alternatively, producers may agree to a voluntary flat reduction of the currently applicable incentives.

1.1. Re-modulation

Starting from 1st January 2015, incentives will be reduced by a ratio as shown in the chart below, and the incentivized period will be extended to 24 years starting from the date of entry into operation of the relevant plant (instead of the current 20 years).

Reduction Ratios Chart

Residual Incentivized Period (years)	Reduction Ratio
12	25%
13	24%
14	22%
15	21%
16	20%
17	19%
18	18%
more than 19	17%

For the plants benefitting from the all-inclusive tariffs (instead of the combination of incentives and sale of electricity), the reduction will apply only to the incentive-related component of the tariffs.

It is also provided that the Regions and the other local authorities will have to extend the validity of the authorisations and permits for the construction and operation of the plants by a period corresponding to the extended incentivized period.

This measure will apply to photovoltaic plants currently in operation and benefitting from the incentives, and it will likely have a number of negative effects.

In particular, the reduction of the yearly value of the incentives (even though compensated by an extension of the incentivized period), may not allow producers to comply with the financial ratios and the amortization plans set out under the financings currently in place, which have been negotiated taking into consideration cash flows deriving from higher annual incentive tariffs.

Furthermore, in some cases it may be necessary to re-negotiate the terms of the agreements for the availability of the lands, which may have been originally negotiated in light of a 20-years incentivized period.

1.2. Subsidised financings

According to the Law-Decree, producers that will be affected by the above described incentives re-modulation will be entitled to have access to bank financings up to a maximum amount equal to the difference between: (i) the original value of the incentives as at 31 December 2014; and (ii) the value of the incentives resulting from the re-modulation.

It is also specified that, through specific framework agreements that will have to be entered into with bank institutions, the above described financings may benefit from funding and/or guarantees to be made available by the *Cassa Depositi e Prestiti S.p.A.*. The obligations of *Cassa Depositi e Prestiti S.p.A.* deriving from the Law-Decree will be guaranteed by the Republic of Italy.

In order to understand the actual terms (including, among others, financing costs and maturity) of the financings that will be made available pursuant to this provision it will be necessary to wait until the framework agreements mentioned under the Law-Decree are entered into and made available.

In any case, for most of the producers whose plants are currently financed, the access to these financings will likely have to occur in the context of a refinancing or restructuring of the existing financings.

1.3. Alternative regime

As anticipated, as an alternative to the re-modulation described under paragraph 2.1 above, producers may agree to a voluntary flat reduction of the incentives currently awarded to their plants by a percentage expected to range between 8% and 10%. This choice will have to be communicated to the GSE by 30 November 2014.

The reduction would be effective starting from 1st January 2015 and would apply until the end of the original incentivized period.

Please note that this reduction would avoid only the re-modulation of the incentives, whilst the rescheduling of the payments of the incentives described under paragraph 2 below would apply in any case.

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2. Re-scheduling of the payment terms of the incentives

In addition to the measures described under paragraph 1 above, the Law-Decree specifies that, starting from the second semester of 2014, the GSE will pay the incentives as follows:

- (i) in part, through fixed monthly instalments, calculated on the basis of 90% of the average estimated production of the relevant photovoltaic plant during the relevant year; and
- (ii) the balance, by 30 June of the following year, on the basis of the actual production of the relevant plant.

According to the Law-Decree, the GSE must define within 15 days the operating modalities for implementing this mechanism, and such modalities will then have to be approved by the MISE.

This measure is in addition to those described under paragraph 1 above and, therefore, will increase – at least during 2014 – the negative effects on the cash-flows generated by photovoltaic plants.

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