

RMBS  
Italy  
Special Report

## Italian Mortgage Renegotiation Decree: Fitch Ask for Details

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### Related Research

- ["Renegotiation Decree does not Trigger Automatic Rating Action on Italian RMBS", 25 July 2008](#)
- ["Italian RMBS Market Overview Trends and Impact on Rating Analysis", 29 May 2008](#)

### Overview

In its report "*Renegotiation Decree does not Trigger Automatic Rating Action on Italian RMBS*", published on 25 July 2008 and available on [www.fitchratings.com](http://www.fitchratings.com), Fitch Ratings commented on the rating implications on law decree N. 93/2008 (converted into law on 17 July 2008). The decree introduced a loan renegotiation scheme for Italian mortgage borrowers (see *Appendix 1* for a detailed description of the law provisions).

The decree provides that the renegotiation scheme can be requested by borrowers of floating-rate mortgages only if the lender - or in the case of RMBS, the notes' issuer - has agreed to implement it. According to the decree, financial institutions that decide to implement the renegotiation scheme had to provide eligible borrowers with a renegotiation proposal by 29 August 2008.

In case of a securitised loan, the decree provides that the "side account" can be held by an entity different from the issuer and that, in such case, the mortgage securing the "side account holder" will be effective only upon full repayment of the loan.

This provision gives the option to the originator to offer a renegotiation also to the borrowers it has securitised. In practice, in instances where the originator has decided to implement the renegotiation scheme while the related RMBS issuer has not, the originator, in its capacity as "side account holder", has to assume the commitment to grant to the securitised borrower the difference between the instalment due on the loan and the cap. In this way, the SPV continues to receive the original amount due and the bank provides the borrower with the required liquidity. Fitch expects that each lender will find its own way to operationally implement the renegotiation and has asked the originators to explain how they will manage the side account to guarantee the "cash settlement" to the SPV.

The Italian banking association (Associazione Bancaria Italiana (ABI)) has published a list of all financial institutions which have agreed to implement the renegotiation scheme. While no Italian RMBS issuer is included in the list, a number of Italian RMBS originators are. Fitch has therefore decided to circulate a questionnaire to originators and servicers of Fitch-rated RMBS, which are included within the list (see *Appendix 2*), in order to determine the potential impact of the decree on outstanding securitisations, as well as the degree of homogeneity among banks as regards their implementation of the renegotiation (and the legal and operative implications for RMBS).

This report summarises the information asked in the questionnaire.

### The Questionnaire

Where the implementation does not concern the securitised mortgages (ie the bank has decided not to exercise the option provided by the decree to act as "third-party side account holder" with respect to the securitised loans), Fitch has asked the banks servicing the RMBS portfolios to explain how they will manage any renegotiation requests by the borrowers of the securitised loans.

This information, together with the share of borrowers eligible for the renegotiation in the portfolio, will constitute the basic information needed to determine whether the transaction could be affected by higher prepayment rates or

lower excess spread during the timeframe set by the decree to complete the renegotiation.

The originators that have exercised the option to act as side account holders have been asked to provide Fitch with the details summarised in the following sections.

## Operative Implementation of the Renegotiation

Fitch has asked banks to provide it with:

- details concerning the renegotiation's "cash settlement" which the bank will implement (e.g. will the bank debit the "side account" and credit the borrower's account on the date in which the loan instalment is due to the issuer? Alternatively, will there be two direct flows to the issuer accounts, from the "side account" and from the borrower's account?);
- information as regards the bank's ability to revoke the renegotiation (i.e. ask the borrower for the amount in the "side account" to be repaid in full prior to the expiry of the original mortgage);
- details, in respect to the issuer, as to whether the payment received will continue to be split between interest and principal flows according to the amortisation schedule of the loan prior to the renegotiation, or whether the renegotiation will have an impact on the interest/principal composition of the issuer's flows;
- details on the operative treatment of partial prepayments, where the borrower does not specify whether the prepayment is on the loan or on the "side account";
- details on the operative guidelines in case the borrower becomes delinquent (i.e. does not pay one or more instalments) or defaults (e.g. is classified as incaglio or sofferenza). For example, will the bank continue to make payments to the issuer or are such payments immediately stopped? Alternatively, will the bank cover the entire instalment for a certain timeframe?

## Legal Aspects

Fitch has asked the banks to provide the template of the contract that will be signed should borrowers decide to exercise the renegotiation option. In addition, banks were asked to answer the following questions:

- what happens when the foreclosure process against a defaulted borrower has been completed? In particular, banks were asked to confirm that the proceeds of the foreclosure will be first used to repay the loan to the issuer, including default interest and legal costs, while the repayment "side account" will be "subordinated" to the loan of the issuer;
- what happens to the relationship between the issuer and the borrower should the bank default (i.e. the bank is no longer able to meet its obligations to the borrower with respect to the "side account")? Fitch asked in particular whether the contract regulating the renegotiation of the securitised loans contains an express acknowledgement by the borrower that the debt with the issuer would remain unaffected by the default of the bank (i.e. the loan owed to the issuer remains unaffected and the mortgage securing the obligation also remains unaffected until the loan owed to the issuer is repaid in full);
- what happens in case the bank becomes bankrupt? In particular, could payments made under the "side account" become subject to claw back (revocatoria fallimentare)?
- does the contract regulating the renegotiation of the securitised loans contain an express acknowledgement by the borrower that, should they decide to prepay the "side account", their debt with the issuer will remain unaffected?

- what happens if the bank revokes the renegotiation scheme (if applicable)? In particular, will the repayment of the amounts outstanding on the “side account” be subordinated to the full repayment of the borrower’s debt with the issuer? Does the contract regulating the renegotiation of the securitised loans contain an express acknowledgement by the borrower that their debt with the issuer would remain unaffected by the revocation (i.e. the loan owed to the issuer remains unaffected and the mortgage securing the obligation also remains unaffected until the loan owed to the issuer is repaid in full)?
- what happens to the issuer should the loan be assumed by another bank (surroga)?

### Investor Disclosure

Banks acting as RMBS servicers were asked if they will be able to provide additional information on the renegotiation in their servicer reports and enable RMBS issuers to disclose such details in their investor reports.

In this respect, should the bank cover for the missed payments of delinquent or defaulted borrowers who have renegotiated, Fitch would welcome a full disclosure of the details needed to assess the actual level of delinquency and default in the pool, regardless of whether they are covered by the bank.

### Pool Data Update

Fitch has asked the banks to provide it with an updated portfolio database immediately after the term set by the decree for borrowers to exercise the renegotiation option. The agency has requested that the banks flag renegotiated loans and the basic information needed to model the impact of the renegotiation on a deal’s cash-flows (e.g. the “capped instalment” offered to the borrower, the interest rate applicable to the “side account”, etc).

### Next Steps

Fitch has requested the banks reply to the questionnaire as a matter of urgency, ideally by the end of September. The results of the questionnaire will be used by the agency to assess any potential rating implications stemming from the implementation of the renegotiation scheme, which is expected to follow different routes (and therefore have different legal and operative implications for RMBS) for each bank.

The information collected will be used to take rating actions on the transactions, if needed.

## Appendix 1

### The Renegotiation Scheme

The renegotiation scheme applies to all floating rate mortgage and floating instalment loans granted prior to 27 May 2008 for the purchase, construction or refurbishment of the abitazione principale (main residence, defined as the place where the owner or his/her “close family members” live).

Financial institutions which decide to implement the renegotiation scheme have to provide eligible borrowers with the proposal for renegotiation by 29 August 2008. The acceptance of the proposal must be communicated by the borrower to the lender or to the financial intermediary within three months from the delivery of the relevant proposal. The renegotiation of the loan will be effective starting from the first instalment due after 1 January 2009.

Technically, the renegotiation consists of a cap on the instalments payable by the borrower; the payment of any “excess over the cap” due to interest rate increases is thus postponed until after the original maturity of the loan. In particular:

- the cap on instalments will be equal to the instalment that results from applying the average interest rate paid by the borrower during 2006 to the original balance of the loan, for all mortgage loans granted prior to 31 December 2006. The cap will be equal to the instalment calculated by applying the interest rate applied to the first instalment for all mortgage loans granted after that date;
- any difference between the instalment due on the loan and the cap, if positive, will not be immediately payable but will be debited in a “side account” in which interest will accrue at a rate equal to the minimum of the 10-year interest rate swap (IRS) - fixed on the renegotiation date - plus a margin not higher than 0.50% and the rate of interest applying to the mortgage loan;
- negative differences will be credited in the side account until its balance is zero;
- the side loan will be repaid when the principal of the mortgage loan has been fully repaid, through the payment of a series of fixed-amount instalments equal to the cap;
- no additional guarantees will be required from the borrowers exercising the renegotiation right and the side account will be backed by the mortgage backing the loan.

## Appendix 2

### Originators of Fitch-rated RMBS Implementing the Renegotiation

Banca Apulia S.p.A.	Banche del Gruppo Banca Etruria
Banca Di Credito Cooperativo di Alba Langhe e Roero S.C.	Banca Popolare dell'Etruria e del Lazio
Banca Di Credito Cooperativo Di Roma	Banca Federico del Vecchio
Banca di Credito Cooperativo Romagna Est	Banche del Gruppo Intesa San Paolo
Banca Popolare di Puglia e Basilicata	▪ Banca dell'Adriatico
Banche del gruppo Banca CARIGE	▪ Banca di Trento e Bolzano
▪ Banca Carige	▪ Banca Fideuram
▪ Cassa Di Risparmio di Carrara	▪ Banco di Napoli
▪ Cassa di Risparmio di Savona	▪ Cassa di Risparmio della Friuli Venezia Giulia
▪ Banca del Monte di Lucca	▪ Cassa di Risparmio dello Spezia
▪ Banca Cesare Ponti S.p.A.	▪ Cassa di Risparmio di Bologna
Banche del Gruppo Banca Marche	▪ Cassa di Risparmio di Civitavecchia
▪ Banca delle Marche S.p.A	▪ Cassa di Risparmio Di Firenze
Banche del Gruppo Popolare	▪ Cassa di Risparmio di Forlì
▪ Cassa di Risparmio di Lucca, Pisa, Livorno	▪ Cassa di Risparmio Orvieto
▪ Banca Popolare di Verona S. Geminiano e S. Prospero	▪ Cassa di Risparmio di Padova e Rovigo
▪ Banca Caripe	▪ Cassa di Risparmio di Pistoia e Pescia
▪ Banca Popolare di Novara	▪ Cassa di Risparmio di Venezia
▪ Banca Popolare di Crema S.p.A	▪ Intesa SanPaolo
▪ Banca Popolare di Mantova	Banche del Gruppo Intesa SanPaolo
▪ Credito Bergamasco	▪ Carivit
▪ Banca Popolare di Lodi	▪ Carifano-Cassa di risparmio di Fano
▪ Banca Popolare	▪ Cassa di Risparmio di Ascoli Piceno
▪ Banca Popolare di Cremona	▪ Cassa di Risparmio di Foligno
Banche del Gruppo BNP Paribas	▪ Cassa di Risparmio di Rieti
▪ Banca Nazionale del Lavoro	▪ Cassa di Risparmio di Spoleto
▪ Banca UCB S.p.A	▪ Cassa di Risparmio di Terni e Narni
Banche del Gruppo BPM	Banche del Gruppo Montepaschi
▪ Banca Popolare di Milano	▪ Antonveneta
▪ Banca di Legnano	▪ Banca Agricola Mantovana
▪ Cassa di Risparmio di Alessandria S.p.a.	▪ Banca Monte dei Paschi di Siena
Banche del Gruppo Banca Popolare di Vicenza	▪ Banca Toscana
▪ Banca Popolare di Vicenza	Cassa di Risparmio di Biella e Vercelli -Biverbanca.
▪ Banca Nuova	MPS Banca Personale
▪ Cariprato - Cassa di Risparmio di Prato	Banche del Gruppo UBI:
Barclays Bank PLC	▪ Banca 24-7
Deutsche Bank	Banche del Gruppo Unicredit:
Banche Del Gruppo UBI	▪ Banco di Sicilia
▪ Banca Carime	▪ Bipop
▪ Banca di Valle Camonica	▪ Unicredit Banca
▪ Banca Popolare Commercio e Industria	▪ Unicredit Banca Di Roma
▪ Banca Popolare di Ancona	▪ Unicredit Corporate Banking
▪ Banca Popolare di Ancona	▪ Unicredit Banca per la Casa
▪ Banca Popolare di Bergamo	Banche del Gruppo Veneto Banca
▪ Banca Private Investment	Banca di Bergamo
▪ Banca Regionale Europea	Banca Meridiana
▪ Banco di Brescia	Banca Popolare di Intra
▪ Banco di San Giorgio	Banca Popolare di Monza e Brianza
Unipol Banca	Veneto Banca

Source: Associazione Bancaria Italiana

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