

PANORAMIC

CREDIT FUNDS

Italy



LEXOLOGY

Credit Funds

Contributing Editor

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MARKET AND POLICY CLIMATE

Market snapshot

How would you generally describe the state of the market for private credit funds in your jurisdiction?

The Italian credit funds market has been growing significantly during the past five years. Capital raised reached €1.1 billion in 2023, while it was €390 million in 2019. Investments in 2023 amounted to €2.8 billion (€1.2 billion in 2019).

Credit funds are perceived by the market as being more flexible and quicker than banks and other financial institutions when providing financings in private equity deals, even though interest rates may be higher than those required by traditional lenders.

Also, the real estate lending market is being approached by credit funds, with the market share increasing and several real estate managers expanding their offering also to this asset class.

Law stated - 22 July 2025

Government and regulatory policy

How would you describe the general government and regulatory policy towards credit funds in your jurisdiction?

Receivables and loan origination are included in Italian laws and regulations among the investment asset classes for alternative funds. The loan origination activity, in particular, has been introduced in the context of the implementation of the Alternative Investment Fund Managers Directive (AIFMD) in 2015, while previously it was possible for a fund to invest in receivables in general but the ability to make loans was not expressly mentioned.

The possibility for fund managers to set up reserved alternative investment funds active in loan origination provides a flexible and efficient instrument to investors, expanding the market to players other than typical financial institutions.

Law stated - 22 July 2025

FORMATION AND MANAGEMENT

Forms of vehicle

What legal form of vehicle is typically used for credit funds formed in your jurisdiction? Does such a vehicle have a separate legal personality or existence under the law of your jurisdiction? Is it possible to create umbrella structures that permit the creation of sub-funds? What are the legal consequences for investors, managers and investment advisers in respect of each of these structures?

Credit funds must be structured as closed-end alternative investment funds, either in contractual or in corporate form.

The fund in contractual form has no legal personality and must be externally managed by an alternative investment fund manager (AIFM). The fund in corporate form (SICAF, which is similar to a joint stock company) has legal personality and can be either self managed or externally managed by an AIFM.

A fund can be organised in segments, which can be established from time to time and are fully segregated among each other, except for the liabilities that are identified as regarding the whole fund.

From a legal point of view, the position of investors, managers and advisers does not differ significantly between a contractual and a corporate structure, although governance rights in the corporate structure may be crafted more similarly to what happens in other jurisdictions, which may make foreign investors feel more comfortable with it.

Law stated - 22 July 2025

Unregulated fund vehicles

Can the fund vehicle be unregulated? If so, does this affect the ability to originate loans or otherwise execute its investment strategy?

The most used credit fund type is the reserved one, which is very flexible as regards the creation of complex structures and can derogate to all limits set forth for retail funds. In addition, it is not subject to the authorisation of the Bank of Italy.

This makes it basically unregulated, although the key principles regarding actually having the characteristics of a genuine fund and being managed in compliance with the laws and regulations must be complied with.

A reserved fund can be subscribed to by professional investors, and retail investors who invest at least €500,000 (or €100,000 in specific circumstances).

Law stated - 22 July 2025

Formation process

What is the process for forming a credit fund vehicle in your jurisdiction? Are there any practical impediments to speed to market, such as account opening or banking and regulatory permissions?

A reserved credit fund in contractual form can be established by the managing body (typically the board of directors) of its AIFM by way of a resolution approving the rules of management of the fund.

A reserved externally managed credit fund in corporate form (SICAF) must be established before a notary by the initial shareholders, who execute an incorporation deed with attached the relevant by-laws.

A reserved self-managed credit fund in corporate form (SICAF) must be established before a notary by the initial shareholders, who enter into an incorporation deed with attached the relevant by-laws, and must be authorised by the Bank of Italy. The authorisation process usually takes around six months, as the self-managed SICAF is not only a fund but also an

AIFM managing its own assets, and therefore the Bank of Italy must check its activity plan, its organisational structure and the prerequisites of its shareholders and directors.

If the AIFM or SICAF is 'above threshold' (ie, a fully authorised AIFM under the Alternative Investment Fund Managers Directive (AIFMD)), then a marketing authorisation of the units or shares of the fund must be requested to the Italian Companies and Exchange Commission (Consob). Authorisation is granted (if that is the case) within 20 to 30 business days from filing. No other filing or authorisation is required.

A contractual fund has no minimum capital requirements. A SICAF's capital must be equal at least to €50,000.

The main ongoing costs are the annual management fee (usually 1–2 per cent fund size), annual custodian fees (usually 0.015–0.02 per cent net asset value (NAV)), auditing firm's fees and, for the SICAF, directors' and statutory auditors' compensation (which may vary). Other costs may be borne by the fund if provided for in the rules of management or the by-laws, but it is usually a matter of negotiation with cornerstone investors.

Law stated - 22 July 2025

Substance requirements

Is a credit fund vehicle formed in your jurisdiction required to maintain locally a custodian or administrator, a registered office, books and records, a corporate secretary, employees, professional anti-money laundering (AML) officers or other substance? If so, how is that requirement typically satisfied?

The fund itself, if in contractual form, does not need any substance but needs an AIFM, a custodian and an auditing firm. If the fund is in corporate form, it also needs a board of directors and statutory auditors but, unless it is a self-managed SICAF (ie, if it is an AIF and an AIFM), no other resources or organisation are needed.

The AIFM takes care of all the management, marketing, compliance and administration activities regarding an externally managed fund or SICAF.

Law stated - 22 July 2025

Access to information

What access to information about a private credit fund formed in your jurisdiction is the public granted by law? How is it accessed? If applicable, what are the consequences of failing to make such information available? What information (in addition to that available to the general public) are shareholders and limited partners able to see? Is it possible to reduce access rights as a matter of contract?

All information is usually kept confidential. Public announcements may be made when a closing takes place, and reference to investors' categories (institutional, funds-of-funds,

pension funds, etc) may be released, but no details of the investors are made public unless they agree so.

The same happens among investors; confidentiality provisions are usually applied, except where a disclosure is needed for investors to exercise their rights.

The above applies less to corporate funds, as companies must communicate to the public register (which is publicly accessible) the content of their by-laws and their shareholders.

Law stated - 22 July 2025

Investor liability

In what circumstances would the limited liability of investors in a credit fund formed in your jurisdiction not be respected as a matter of local law? Is there a list of actions in which investors can participate without losing their limited liability?

Investors' assets are totally segregated from a fund's assets, and all liabilities of the fund must be fulfilled with its own assets only. The investors shall be liable within the limit of respective commitments. Certain governance rights are usually granted to investors, and if these rights are in compliance with laws and regulations and do not lead to the fund being requalified as not being a fund, their exercise by investors cannot lead to losing their limited liability. These governance rights typically include the right to replace the AIFM, veto rights on amendments to fund rules or by-laws, on transactions in conflict of interest, on derogation to investment limits, on the extension of the fund or investment period, on key people replacement and on launch of successor funds.

Law stated - 22 July 2025

Fund manager's fiduciary duties

What are the fiduciary duties owed to a credit fund formed in your jurisdiction and its third-party investors by that fund's manager, investment adviser or other similar control party or fiduciary? To what extent can those fiduciary duties be modified by agreement of the parties?

The fiduciary duties of the AIFM are set forth by law and consist of the obligation to exercise its professional care for the safe and prudent management of the fund in the exclusive interest of the investors. The AIFM is directly responsible for the investors (and the fund) for the actions of the third-party service providers it appoints in the interest of the fund.

Law stated - 22 July 2025

Gross negligence

Does your jurisdiction recognise a 'gross negligence' (as opposed to 'simple negligence') standard of liability applicable to the management

of a credit fund? If so, how does this standard differ from a simple negligence standard?

As an AIFM is a professional intermediary expressly authorised for exercising a reserved activity, there is no significant difference between gross and simple negligence, and the required duty of care is higher than the one due by a non-professional operator.

Law stated - 22 July 2025

Other special issues or requirements

Are there any other special issues or requirements particular to credit fund vehicles formed in your jurisdiction? Is conversion or redomiciling to vehicles in your jurisdiction permitted? If so, in converting or redomiciling vehicles formed in other jurisdictions into vehicles in your jurisdiction, what are the most material terms that typically must be modified and how common is this process? How long does it typically take?

Reserved credit funds, like any other reserved alternative fund, must be set up and managed by an AIFM, have a plurality of investors, and be invested as a whole on the basis of a predetermined investment policy and independently from the investors.

There are no specific requirements for reserved credit funds additional to those provided for other reserved alternative funds, except for certain limitations on leverage (the maximum ratio being 1.5) and a proper diversification of investments. Loans granted in Italy must be compliant with the same provisions applicable to banks as regards transparency and relationships with clients.

Conversion or redomiciling of credit funds in Italy is not common and, as long as the fund is a reserved one, is not regulated by specific provisions of law. If the fund is in corporate form, the conversion or redomiciling must be carried out in compliance with the rules governing the change of registered office of the company, and must involve in Italian notary public for the relevant amendments of the by-laws.

Law stated - 22 July 2025

Fund sponsor insolvency or change of control

With respect to institutional sponsors of credit funds organised in your jurisdiction, what are some of the primary legal and regulatory consequences and other key issues for the credit fund and its general partner and investment manager or adviser arising out of a bankruptcy, insolvency, change of control, restructuring or similar transaction of the credit fund's sponsor?

If the sponsor is also the AIFM of the fund, it must be replaced with another AIFM as soon as possible to avoid any service disruption. If the sponsor is an investor and it is no longer able to fulfil its commitment in the fund, measures can be included in the fund rules to exclude

the defaulting investor and, if no other action is feasible, eventually cancel its interest in the fund with a significant reduction of the redemption price and a penalty.

Law stated - 22 July 2025

REGULATION, LICENSING AND REGISTRATION

Principal legislation and regulatory bodies

What principal legislation governs credit funds in your jurisdiction? Which regulatory bodies have authority over credit funds and its managers and investment advisers in your jurisdiction? What are the regulators' audit and inspection rights?

The main laws governing Italian funds, as amended from time to time, are the Unified Financial Act (Legislative Decree 58/1998), the Ministerial Decree 30/2015, the Bank of Italy's regulation on collective investment management and Consob's regulation on issuers.

The Bank of Italy is the supervisory authority competent for the authorisation of SGRs (the Italian alternative investment fund managers (AIFMs)) and of retail funds (while reserved funds are not subject to authorisation, although the Bank of Italy has the power to scrutinise whether a fund is structured and functions in compliance with the regulatory framework). Consob is the supervisory authority competent for the marketing of financial instruments (including interests in funds) and over financial services providers in general.

Both authorities have extensive audit and inspection powers as regards the compliance of all operations of the intermediaries with the regulatory framework. They can issue administrative sanctions and fines, as well as request the intermediary to implement remedy plans or, in most serious cases, order that the intermediary is administered through an external commissioner.

Law stated - 22 July 2025

Reporting and disclosure requirements

What ongoing reporting and disclosure requirements apply to credit fund managers and investment advisers in your jurisdiction?

Funds' reporting and disclosure requirements regard mainly the constitutional documents and, after the start of operations, financial documents (at least the annual and semi-annual reports) and any amendment to the fund rules or by-laws. Disclosures to investors depend on the negotiations of the fund rules or by-laws and can be differentiated among different classes of interests. The identity of investors and any significant change thereto needs to be reported to regulators only when the fund is a self-managed SICAF (ie, it is a fund and an AIFM).

Law stated - 22 July 2025

Fund licensing and registration

What governmental approval, licensing or registration requirements apply to credit funds in your jurisdiction?

If the fund is reserved (as it usually is) no approval is required. Once the fund is established, the relevant constitutional documents must be submitted to the Bank of Italy for information purposes. If the fund is focused on loan origination or purchase of receivables (including where deriving from an existing loan) it is considered a credit fund and is subject to the specific requirements outlined in this guide. If it invests in bonds and notes, instead, these are considered financial instruments and, therefore, the fund is not a credit fund.

Law stated - 22 July 2025

Registration of investment adviser

Is a credit fund's manager or investment adviser (or any of its officers, directors or control persons) required to register as an investment adviser in your jurisdiction? If so, is there a triggering activity for such registration?

Is a credit fund's manager or investment adviser (or any of its officers, directors or control persons) required to register as an investment adviser in your jurisdiction? If so, is there a triggering activity for such registration?

A credit fund must be managed by an AIFM, which can be an Italian SGR or an EU AIFM passported to Italy.

Law stated - 22 July 2025

Fund manager and investment adviser qualifications

Are there any specific qualifications or other requirements imposed on a credit fund's manager, investment adviser or any of its officers, directors or control persons in your jurisdiction?

Yes, if the manager is an SGR, it must meet certain minimum capital requirements that can be of €50,000 to €1 million, depending on the type of AIFs it manages. The SGR must also prepare a business plan, an activities plan and an organisational structure report. Its directors and controllers must meet certain honourability, professionalism and independence requirements and its shareholders must meet certain honourability, business correctness and professional competence.

Law stated - 22 July 2025

Political contributions

Are there any rules – or policies of public pension plans or other governmental entities – in your jurisdiction that restrict, or require disclosure of, political contributions by a credit fund's manager or investment adviser or their employees?

There are no specific rules for the credit funds sector.

Law stated - 22 July 2025

Use of intermediaries and lobbyist registration

Are there any rules – or policies of public pension plans or other governmental entities – in your jurisdiction that restrict, or require disclosure by a credit fund’s manager or investment adviser of, the engagement of placement agents, lobbyists or other intermediaries in the marketing of the fund to public pension plans and other governmental entities? Are there any rules that require a fund’s investment adviser or its employees and agents to register as lobbyists in the marketing of the fund to public pension plans and governmental entities?

There are no specific rules for the credit funds sector.

Law stated - 22 July 2025

Bank participation

Are there any legal or regulatory requirements that specifically apply to banks with respect to investing in or sponsoring credit funds?

From a credit fund and relevant manager point of view, there are no specific requirements for banks investing in a credit fund. Banks are, however, subject to their own regulations, which might limit or submit their investments in credit funds to certain conditions.

Law stated - 22 July 2025

Anti-money laundering rules

What anti-money laundering (AML) rules and regulations apply to credit funds formed in your jurisdiction? Are there any requirements for due diligence, record keeping or disclosure of the identities of (or other related information about) the investors in a credit fund or the individual members of the sponsor? What AML requirements apply at the level of the fund? What level of scrutiny is required for AML checks regarding investments?

The entity taking care of AML duties for a credit fund is its AIFM. The AIFM must keep up-to-date records, submit an annual report as well as report suspicious transactions concerning investors in the fund and counterparties of the transactions carried out by the fund. The AIFM must have an AML function, which may be outsourced but the outsourcer must report to a member of the management body (typically, the board of directors).

Law stated - 22 July 2025

TAXATION

Tax obligations and exemptions

Is a credit fund vehicle formed in your jurisdiction subject to taxation there with respect to its income or gains? Is the fund required to withhold taxes with respect to distributions to investors? Are there any applicable tax exemptions?

Credit funds established in Italy are, in principle, subject to corporate income tax (IRES) even if exempt. Consequently, credit funds are exempt from IRES and from withholding taxes on most types of passive income (eg, dividends, capital gains). However, a final withholding tax or a substitute tax at the rate of 26 per cent may apply on certain categories of passive income (eg, proceeds paid under 'atypical' financial instruments).

Distributions to Italian resident investors would be subject to a 26 per cent withholding, which applies as a provisional income tax to the following Italian resident investors:

- individuals engaged in entrepreneurial activities to which the fund units are effectively connected;
- commercial partnerships; and
- Italian resident companies and commercial entities, including permanent establishments in Italy of foreign companies and entities to which the fund units are effectively connected.

In all other cases, the 26 per cent withholding tax applies as a final withholding tax.

Law stated - 22 July 2025

Tax structuring

What range of downstream tax structures are available and commonly used in your jurisdiction to mitigate any tax leakage?

There is no need to mitigate any tax leakage as institutional investors (including foreign securitisation vehicles) are generally exempt from any withholding applicable on distribution by Italian credit funds.

Law stated - 22 July 2025

Local taxation of non-resident investors

Are non-resident investors in a credit fund subject to taxation or return-filing requirements in your jurisdiction?

Distributions to non-Italian resident investors would be subject to a final withholding tax at a rate of 26 per cent. However, no withholding tax applies on profits perceived by non-Italian resident investors who fall in one of the following categories:

- beneficial owners resident for tax purposes in a state or territory that allows an adequate exchange of information with the Italian tax authorities and listed in the Italian Ministerial Decree dated 4 September 1996, as amended and supplemented

from time to time (last amendment being made by Italian Ministerial Decree dated 23 March 2017), (the White List);

- institutional investors (ie, an entity whose activity consists in making or managing investments on its own behalf or on behalf of other persons) established in one of the countries included in the White List and therein not subject to tax, but subject to forms of regulatory supervision in their home country or, if not subject to such a form of regulatory supervision, having a specific expertise and experience in securities transaction expressly declared in writing by its the legal representative;
- international entities and organisations established in accordance with international agreements ratified in Italy; or
- central banks or entities that manage, inter alia, the official reserves of a foreign state.

Law stated - 22 July 2025

Local tax authority ruling

Is it necessary or desirable to obtain a ruling from local tax authorities with respect to the tax treatment of a credit fund vehicle formed in your jurisdiction, or the services provided by the investment manager or investment adviser? Are there any special tax rules relating to investors that are residents of your jurisdiction?

The tax regime of certain fees as upfront fees, structuring fees, arrangement fees is questionable from a VAT perspective and in certain cases it may be prudent to file a tax ruling.

Law stated - 22 July 2025

Special tax considerations for sponsors

Are there any special tax considerations for credit fund sponsors?

In Italy, carried interest profits qualify as financial income for Italian tax purposes by presumption of law rather than as employment income, and thus being taxed at a flat rate of 26 per cent, subject to the following three conditions:

- the aggregate investment made by the carried interest holders is at least equal to 1 per cent of the total invested by the fund (minimum investment condition);
- the carried interest accrues after the ordinary investors in the fund have received an amount at least equal to their invested capital plus a minimum hurdle rate envisaged in the fund regulation (deferment condition); and
- the carried interest instruments are held for the earlier of five years from their subscription date and the date in which the management company changes (minimum holding period condition).

If one or more of the above conditions is not met, this does not automatically result in the carried interest distributions being subject to tax as employment income for the recipient.

Rather, it requires an in-depth case-by-case analysis of the terms and conditions governing the carried interest scheme to assess whether the purpose of the Italian carried interest legislation is respected.

Law stated - 22 July 2025

Tax treaties

**Are there any relevant tax treaties to which your jurisdiction is a party?
How do such treaties apply to the fund vehicle or any downstream structure?**

The double taxation treaties in force with Italy are [publicly available](#).

As Italian funds are, in principle, subject to IRES, they are not regarded as tax-transparent entities, but as resident entities for Italian tax purposes. Italian funds may, therefore, in principle, benefit from tax treaties concluded by Italy.

For this purpose, Italian tax authorities have expressly clarified that the Italian tax offices are required to issue, upon request of the SGR, residence certificates for the application of treaties against double taxation.

Law stated - 22 July 2025

Other significant tax issues

Are there any other significant tax issues relating to credit funds organised in your jurisdiction?

Funds could become the target investment included in a long-term individual savings account (PIR).

Subject to certain limitations and requirements (including a minimum holding period), Italian resident individuals not acting in connection with an entrepreneurial activity may be exempt from any income taxation deriving from units issued by PIR compliant funds.

Law No. 111 of 9 August 2023 (Law 111) delegated the Italian government to enact one or more legislative decrees implementing a reform of the Italian tax legislation (the Tax Reform).

According to Law 111, the Tax Reform is expected to significantly impact the tax regimes of, inter alia, financial instruments and that the nature, extent, and impact of these prospected changes cannot be foreseen and/or assessed with certainty at the date of this document.

As a result, the information provided in this document may not be comprehensive and compliant with the future tax landscape.

Law stated - 22 July 2025

OFFERING, SELLING AND INVESTMENT RESTRICTIONS

Offer and sale

What principal legal and regulatory restrictions apply to offers and sales of interests in credit funds formed in your jurisdiction, including the type of investors to whom such funds may be offered without registration under applicable securities laws?

Reserved credit funds can be marketed to professional investors (as defined under the Markets in Financial Instruments Directive) but also to retail investors who invest at least €500,000 (or €100,000 in specific circumstances). 'Above threshold' SGR (ie, fully authorised, in the Alternative Investment Fund Managers Directive (AIFMD) meaning) must also request a marketing authorisation to Consob. Reserved credit funds established by EU alternative investment fund managers (AIFMs) can be marketed through an AIFMD passport procedure, while retail credit funds established by EU AIFMs can be marketed only upon authorisation by Consob. The AIFM managing the fund must submit an advance notification to Consob and can start marketing once the relevant no-objection communication has been issued by Consob.

The authorisation process also involves the Bank of Italy and takes around 20 business days from filing to be completed, but this term can be suspended if clarifications or integrations of the documentation are requested by Consob.

Non-EU funds or funds managed by non-EU AIFMs cannot be marketed in Italy.

Law stated - 22 July 2025

Types of investor and investment

Are there any restrictions on the types of investors that may participate in credit funds or the types of investments that may be held by credit funds formed in your jurisdiction?

There are no specific restrictions, but if the credit fund is a retail one, its investment policy must comply with a diversification limit that is not applicable to reserved funds (namely, the exposure towards a single borrower cannot be higher than 10 per cent of the assets of the fund).

Law stated - 22 July 2025

EXCHANGE LISTING AND SECONDARIES

Listing

Are credit funds able to list on a securities exchange in your jurisdiction and, if so, is this customary? What are the principal initial and ongoing requirements for listing? What are the advantages and disadvantages of a listing? Are there any restrictions on the type of vehicle or the terms of the credit fund that is seeking a listing?

Listing of a credit fund is possible but not customary. Borsa Italiana has created a dedicated segment, the MIV, but no credit fund is listed to date. Listing may be interesting if there is the need to provide liquidity to investors despite the closed-end nature of the fund. However,

the additional requirements in terms of reporting and the complexities of the listing process have discouraged the managers from listings their funds to date, with very few exceptions.

Law stated - 22 July 2025

Restriction on transfers of interests

To what extent can a listed fund restrict transfers of its interests?

Limits to the transfer of interest and to the eligible investors can be provided for in the fund rules or by-laws.

Law stated - 22 July 2025

Secondary transactions

Can interests in a private credit fund established in your jurisdiction be transferred between investors? If so, are these typically subject to any contractual or regulatory conditions?

Yes, transfer of interests is allowed, but only among eligible investors and usually subject to approval by the alternative investment fund manager, which can be withdrawn only if provided for in the fund rules or by-laws.

Law stated - 22 July 2025

PARTICIPATION IN PRIVATE CREDIT TRANSACTIONS

Legal and regulatory restrictions

Are funds formed in your jurisdiction subject to any legal or regulatory restrictions that affect their participation in private credit transactions or otherwise affect the structuring of private credit transactions completed inside or outside your jurisdiction? Can a private credit fund hold non-loan or non-debt investments and, if so, are such holdings subject to any restrictions? Is a private credit fund established in your jurisdiction subject to any restrictions on participating in any creditor committees or taking other actions in respect of its credit investments or borrowers?

No specific limitation is provided, except for credit to consumers, which is not allowed. Other investments, including in non-loan or non-debt instruments, are allowed if contemplated in the investment policy.

Law stated - 22 July 2025

Use of leverage

Are there any legal or practical restrictions on funds formed in your jurisdiction having a subscription line (and providing security over investor interests) or having true leverage (and asset level security) in the fund?

Credit funds should not provide security over their investors' interests (in accordance with the segregation principle) but can use leverage and provide security over their own assets. Retail credit funds cannot take borrowings for more than 30 per cent of NAV, while reserved credit funds cannot use a leverage ratio higher than 1.5. Borrowings can be taken only from banks, financial intermediaries or other authorised entities.

Law stated - 22 July 2025

Compensation and profit sharing

Are there any legal or regulatory issues that would affect the structuring of the sponsor's compensation and profit-sharing arrangements with respect to the fund? Is there anything that could affect the sponsor's ability to take management fees, transaction fees and a carried interest (or other form of profit share) from the fund?

Management fees and carried interest arrangements are a matter of negotiation and are included in the fund rules or by-laws.

There are no specific legal or regulatory constraints other than those that are required for alternative investment fund managers and their delegates in the context of the remuneration policy under AIFMD.

Law stated - 22 July 2025

UPDATE AND TRENDS

Key developments of the past year

What are the most significant recent trends and developments relating to credit funds in your jurisdiction? What impact do you expect such trends and developments will have on global credit fundraising and on credit funds generally?

The Italian credit funds market is still developing, and there are indicators that it will continue growing. There have been no particular new legal or regulatory provisions introduced recently that may have an impact on such trend.

Law stated - 22 July 2025