

Golden Power Task Force

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Golden Power reform in the financial sector: response to the EC's letter of formal notice

1. Introduction

Law 4/2026 was published on 21 January and introduced new rules on the application of Law Decree 21/2012 (“**Golden Power Legislation**”) in the financial sector, with significant implications for investors and companies in this sector.¹

The reform is part of the progressive expansion of Golden Power Legislation's scope of application in the financial and banking sectors, which culminated in the 12 July 2025 ruling by the Lazio Regional Administrative Court (“**TAR Lazio**”) in the UniCredit/Banco BPM case.² In this ruling, the judge recognised that the protection of savings could fall within the scope of Golden Power Legislation. This expansion raised an issue, also addressed in the same ruling, concerning the interaction with the European Central Bank's (“**ECB**”) supervisory powers under the Single Supervisory Mechanism (“**SSM**”).

The case also attracted the interest of the European Commission (“**Commission**”), which, following a complaint, initiated infringement proceedings against Italy through a letter of formal notice.

Law 4/2026 is specifically intended to ensure the closure of the infringement proceedings by bringing Italy's Golden Power Legislation fully in line with EU law. Below is a summary of the concerns raised in the Commission's letter of formal notice and the corresponding amendments introduced by Law 4/2026.

¹ Law No. 4 of 15 January 2026, converting Law Decree No. 175 of 21 November 2025.

² TAR Lazio, Rome, Section I, Decision No. 13748 of 12 July 2025.

2. Commission infringement proceedings against Italy

Through a letter of formal notice dated 21 November 2025, the Commission initiated infringement proceedings against Italy and identified two main concerns.³

First, certain applications of Golden Power Legislation could allow interventions in the banking sector based on economic considerations unrelated to national security or public order, which, as such, would not be sufficient to justify a derogation from the fundamental freedoms guaranteed by EU law.

Second, the overlap between the exercise of special powers and the powers conferred on the ECB by EU law under the SSM could lead to a breach of the ECB's exclusive powers in the field of authorisations, controls and prudential assessments.

According to press reports,⁴ Italy has acknowledged receipt of the letter of formal notice. The Commission must now assess Italy's response and the measures it has adopted under Law 4/2026 and decide whether to terminate the infringement proceedings. Alternatively, the Commission could move onto the next stage by issuing a reasoned opinion, which could then be referred to the Court of Justice of the European Union.

3. Recent amendments to Golden Power Legislation in the financial sector

Law 4/2026 specifically addresses how Golden Power Legislation interacts with EU authorities' powers in the financial sector and has introduced the following amendments:

- The concept of public security, as protected by Golden Power Legislation, now expressly includes national economic and financial security.
- For transactions in the financial, credit and insurance sectors subject to authorisation or assessment by the competent EU authorities on prudential or competition grounds, the Presidency may not decide on the exercise of special powers until those authorities have made their decision. In these cases, the deadline for submitting a Golden Power notification runs from the conclusion of the related EU authorisation procedures.

³ The findings refer specifically to Regulation (EU) No 1024/2013 on the SSM, Directive 2013/36/EU (Capital Requirements Directive), and Arts. 49 and 63 of the Treaty on the Functioning of the European Union, relating respectively to freedom of establishment and free movement of capital.

⁴ https://www.ansa.it/sito/notizie/topnews/2026/01/21/ue-arrivata-risposta-dallitalia-sul-golden-power-la-valutiamo_1641df77-ce87-4714-ac4c-7dde323dbc48.html

- Where the exercise of special powers is conditional on the State's essential interests not being adequately guaranteed by existing "national and European sectoral legislation", that concept is now expressly defined as including:
 - legislation on the prudential assessment of acquisitions of qualifying holdings in the financial sector; and
 - legislation on the control of concentrations.

4. Conclusion

The amendments introduced by Law 4/2026 coordinate Golden Power screening with the checks carried out by EU authorities, both in the fields of banking supervision and competition. However, this procedural coordination might result in significant delay in the overall timing in obtaining the Presidency's authorisation.

Until now, the procedure to initiate Golden Power screening occurred in parallel with those conducted by EU authorities. In contrast, Law 4/2026 requires the screening for the financial sector to be deferred until after those of EU authorities, which are often lengthier. As a result, the time between signing an agreement and closing a transaction could more than double.

Substantively, the reform expands the concept of public security under Golden Power Legislation to include national economic and financial security. At the same time, it clarifies that the Presidency may intervene only where national and EU sectoral legislation does not already provide adequate protection – an aspect that is particularly important in the banking sector.

It is still unclear whether the Commission will consider Italy's regulatory changes as sufficient, and how cases will be handled in practice if the Presidency considers that EU prudential or competition rules do not adequately mitigate national security risks.

The firm has been following developments in the regulation of special powers for some time and is available to analyse the regulatory and practical implications of these developments and the Golden Power issues related to transactions in the financial sector.

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