



バガラ&パートナーズ法律事務所

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## **Biz Buddy Article n. 5**

### **TITLE: ENTERING IN ITALIAN MARKET POST-COVID-19: THE OPTION OF ESTABLISHING A REPRESENTATIVE OFFICE**

The unprecedented situation due to the expansion of Covid-19 occurred in 2020 resulted in negative impacts on Japanese companies which have been planning to expand in Europe, such as postponement and suspension of their overseas projects.

Although the pandemic situation still remains unpredictable in 2021, some companies have begun to restart the post-Covid-19 deployment. Our law firm gets asked for consultations about investment opportunities and business plans in Italy, and one of the recent concerns of those companies is the risk of big investment in a situation where the outlook is difficult.

In such cases, as one of the possible options, we introduce a particularly simple way for a first step in Italy, which is opening a representative office to limit initial costs.

This could be also a practical choice for a company which already has a branch in other European countries such as Germany and France and may need to learn about the Italian market for future entry because, for instance, the northern Italy is one of the most highly specialized industrial area of Europe.

Frequently occurring situation is that a Japanese company already has an agent or distributor in Italy but does not have an official presence of their company.

A good solution for this situation may be to maintain the relationship with the Italian agent / distributor but at the same time formally open a representative office, which will be officially recognized by the Italian Business Register.

In this way, at this delicate moment of global pandemic due to Covid-19, the sending of a seconded worker to Italy as an employee of the Japanese parent company can be avoided.

We submit a practical case with actual Q&As, that may be the first step towards a future investment in Italy.

#### **Q: Is there a simple and agile way to formalize the presence in Italy?**

A: Yes, the Japanese company may open a representative office (rep. office) in Italy, which must be registered with the relevant Chamber of Commerce within 30 days from its opening.

The rep. office does not require an incorporation act and does not require a minimum capital.

In fact, the rep. office is only registered in the REA (Economic Administrative Registry) of the competent Chamber of Commerce.

**Q: What are the operational limits of the rep. office?**

A: The rep. office is not a permanent establishment such as "subsidiary" and "branch" of a Japanese company in Italy, and can only carry out the promotion of the services and products of the parent company activities. It can have an office, a warehouse and can hire workers.

**Q: The Japanese company must have an Italian partner to open the office?**

A: Absolutely not. To make the application of the registration is advisable to rely on an advisor (lawyer / notary) that will indicate the necessary documents. With the correct documents, the Italian advisor can do the whole registration.

It is possible to open an Italian bank account to expedite all the financial operations in Italy.

It will be necessary to indicate, at the time of registration, the address where the rep office will be located. We have been requested often to support the Japanese parent company to find the office and to sign the lease contract.

**Q: Is it possible for the Japanese company to send one of its employees to Italy to work in the rep. office?**

A: Yes. The Italian Immigration Law provides a special type of visa that allows to send an employee to work in Italy. It is Important to point out that this visa is out of the annual quota that the Italian Government sets and is subjected to a more streamlined and fast procedure. The employee must be hired for at least 3 months by the Japanese parent company.

**Q: For the visa procedure, how can we proceed?**

A: It is advisable to rely on a specialized advisor who will indicate the necessary documents and will follow all the steps such as nulla osta, visa and permit to stay application. Once the Japanese worker enters in Italy after getting the visa, it is required to visit, within 8 days, the Immigration Office complete the procedure with the signature of the Contract to Stay and Integration Agreement.

**Q: How is the rep. office treated for tax purposes?**

A: The rep. office cannot produce any kind of income but it works as a mere center of cost aimed at the promotion of the Japanese parent company.

All costs incurred, such as office rent, phone, transportation etc., can be deducted by the parent company.

**Q: Who will represent the company in Italy?**

A: The Japanese company can appoint a person, resident or non resident in Italy, who will act as legal representative in Italy in order, for instance, to sign the lease contract of the office.

**Q: How is treated the employment taxation aspect in Italy?**

The seconded Japanese employees will be requested to pay the tax in Italy on his salary. It is important to note that, until now, was not formalized yet the agreement between Japan and Italy on Social Security (agreement signed in Rome in 2009), which essentially entails that the Japanese employees will remain covered by the Japanese Pension Institute paying the contribution in Japan.

**Q: Is it necessary to appoint a person acting as a representative in Italy of the Japanese company?**

A: Yes. The Japanese company needs to appoint a person to represent the Japanese company in front of the Italian public offices. We recommend to appoint a person that lives in Italy and we often assume this role.

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In a nutshell, a representative office can be an effective solution for a small start before the establishment of a branch or subsidiary, very useful for managing preparatory activities, such as marketing, in view of a structured entry into the Italian market.

It is worth pointing out that a separate and specific procedure is required for setting up a branch or local company in case you decide to switch from the representative office, so you need to carefully consider which is the the best strategy.