COUNTERFEITING OF IT EQUIPMENT

CONSUMER GUIDELINES

IO SONO, IO SCELGO SOLO

Ⓡiginale

Know the problem to deal with it better

IO SONO ORIGINALE Project

CONTENTS

WHAT IS COUNTERFEITING

The word "counterfeiting" signifies the reproduction of a good in such a manner that it is mistaken for the genuine product, or manufacturing, importing, selling or using products or services protected by intellectual property rights (Legislative decree 10 February 2005, no. 30 and Regulation EC no. 1383 of the Counsel on 22 July 2003).

Counterfeiting is an ancient phenomenon that affects many merchandise sectors including IT equipment, consumer electronics (PCs, smart phones, printers, etc.) but also software, music CDs, films, etc.

The sale of counterfeit products not only affects the safety and health of consumers but also hurts a country's economy because it takes jobs away from the community and tax revenue from the State. Fraudulent imitation of a product may also cause the deviation of trade and lead to unfair competition and cause serious damage to the research development and invention and innovation capacity.

HOW TO DEFEND YOURSELF

The sale of counterfeit goods is done through different distribution channels in which the counterfeiting is not always clear. It often occurs through markets outside the regular distribution chain such as street stands or beach vendors or through the Internet and even in stores belonging to the regular distribution chain.
This handbook provides practical advice for defending yourself from the danger of unknowingly purchasing counterfeit goods.

GOOD RULES

COUNTERFEITING IS NOT ALWAYS OBVIOUS. TO AVOID UNKNOWINGLY PURCHASING COUNTERFEIT GOODS, ONE MUST ABOVE ALL FOLLOW SEVERAL SIMPLE BASIC RULES:

- avoid buying products that are **much cheaper than market prices**. They may seem like a good deal but it is an indication of a non-authentic product.

- Always buy from **authorized sellers**.

- Before making a major purchase, seek information from people that have a greater knowledge of the product.

- Always carefully read **the labels** of purchased products (their label is their "identity card") and be wary of those with fine print or unclear writing or without indication of where they were manufactured and the "CE brand".

- **Purchase only products in integral packages or packaging**, with the manufacturer's name, making sure where they come from and any quality brands or certification.

- Use caution in dealing with **non-authorized sellers**: if the seller's identity and contact information (telephone, address, etc.) are not clearly indicated, it is possible that the products are counterfeit.

- Pay attention when buying **products offered on non-authorized channels,** especially when it is not possible to examine the merchandise prior to purchase and return it after you have received it.

EXTENT AND CHARACTERISTICS

Analyzing the figures on this phenomenon in the period from 2008 to 2013, we see that the counterfeit industry has developed a turnover of circa €3.8 billion. The Customs Agency and Guardia di Finanza have made a total of nearly 100,000 seizures in the same reference period, confiscating 334 million counterfeit items. (Data from the Customs Agency and Guardia di Finanza, Source Iperico DGLC – UIBM).

In recent years, we have seen a sharp rise in counterfeit goods and an increase in the number of seizures which, from the analysis of the data, are concentrated in several regions with a majority in Lazio, Lombardy, Campania, Puglia, Tuscany and Liguria. In general, most seizures regard "clothing accessories," "clothing" and "toys." These categories, all together, account for 80% of the overall total of confiscated goods. The situation is aggravated also by a significant expansion and diversification of the counterfeit products that are no longer only luxury items but also regard the most disparate consumer goods (medicines, toys, etc.).

With specific reference to IT equipment, it was seen how, despite the disturbing jump recorded in 2011 (circa 7 million items confiscated), the number dropped to 218,000 in 2013.

3,8 MILIARDI 2013

334 MILIONI DI BENI CONTRAFFATTI

COUNTERFEITING IN THE IT EQUIPMENT SECTOR

This term encompasses consumer electronics in general such as PCs, hardware and software, printers and computer accessories, mobile devices (smart phones, tablets, etc.) and media such as CD, DVD, USB, etc.

The IT equipment sector also includes computer equipment known as "consumables" (toner, drum units, cartridges, etc.), in addition to spare parts for printers, copiers, fax machines, related and complementary accessories and equipment.

It equipment comprises:
- desktop computers (hardware, keyboard and accessories)
- notebook computers
- computer servers
- LCD monitors
- computer backup unit
- continuous power supplies for computers and servers
- dot matrix, inkjet and laser printers
- system dot matrix printers
- modems, fax machines, calculators, scanners
- typewriters, word processors
- tabletop and system photocopiers
- answering machines, telephone exchanges, tabletop telephone equipment
- cell phones with batteries and accessories
- bulk spare parts for computers, and related and complementary accessories and equipment

arge spare parts for fax machines, printers, photocopiers, related and complementary accessories and equipment

Software is the whole of the programs that manages and specializes the functioning of a computer. The basic software is the operating system and the whole of the programs that allow the computer to run its basic functions such as programs for professional, administrative and company use.

We see therefore that it is possible to find software in the marketplace for the following:

- office automation
- graphics and image processing
- desktop publishing
- 2D and 3D CAD
- security (antivirus, antispam, anti-malware, backup, firewall, etc.)
- operating systems, browsers and system software
- enterprise software (Database, ERP, Document and Content Management Systems, Business)
- for professional firms
- for developers (compilers, development environments, libraries, utilities)
- mathematical, scientific and financial simulation
- virtualization
- music and for multimedia production and playback
- content for electronic publishing (eBooks, eMagazines)
- various utility files (for file management, compression and protection)
- facilitated accessibility (screen reader and text to speech output)
- video games and entertainment software
- apps of all kinds for smart phones, tablets and other mobile devices

REGULATORY REFERENCES

At the regulatory level, a fundamental step forward was the 2009 Development Law (**Law 23 July 2009 no. 99** "Provisions for the development and internationalization of businesses as well as energy") which, among the other provisions, provided for the following:
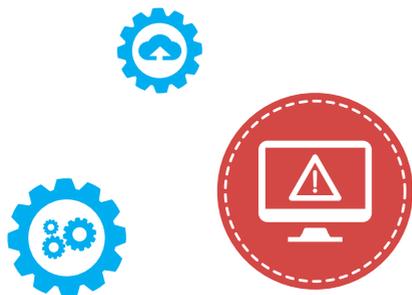
- stiffening criminal penalties and establishing the mandatory confiscation of the goods of the party guilty of counterfeiting.

- Introducing new aggravating circumstances for whoever is guilty of counterfeiting in a systematic manner or with the setup of organized means and operations.

- Introducing 2 new categories of crime aimed at penalizing the manufacturing and sale of goods made through the infringement of industrial property rights and the fraudulent indication of geographical origin or the denomination of origin of foodstuffs.

- Removing the knowing and intentional conduct of the final consumer from the applicability of the criminal penalty, lowering the amount of the fine (which today ranges from 100 – 7000 euros) and making it a possible instrument of "education" of the consumer in the hands of the Police Forces.

At the penalty system level: art. 1, section 7, of Legislative Decree 14 March 2005, no. 35 establishes that "the final purchaser who for any reason purchases items which, due to their quality or the conditions of the seller or the amount of the price, lead to the conclusion that regulations regarding the origin or provenance of the products and industrial property have been violated shall be punished with a fine ranging **from 100 euros up to 7,000 euros.**

On the other hand, on audiovisual piracy, "whoever illegally utilizes, duplicates, reproduces, entirely or in part, with any procedure whatsoever works protected by intellectual property rights" shall be punished with a fine of **154 euros.**

At the legislative level, Directive 2004/48/EC of the European Parliament and Council on 29 April 2004 is the instrument for promoting the respect of intellectual property rights and therefore the fight against counterfeiting implemented in our laws with Legislative decree 16 March 2006 no. 140.

For a more exhaustive analysis of the institutional and regulatory framework for the fight against counterfeiting and the enforcement strategies at the national level, please see also:

Industrial Property Rights Code

The Industrial Property Rights Code/*Codice della proprietà industriale (CPI)*, emanated with Legislative Decree 10 February 2005, no. 30, implemented comprehensive and structured regulation of the protection, defense and enhancement of intellectual property rights, rearranging and grouping more than 40 different pieces of legislation between laws and provisions, consequent in particular to the bringing Italian laws into compliance with community regulations and the provisions of international conventions to which Italy is a signatory. The consolidated law on industrial property has therefore led to intense activity for bureaucratic simplification and an organized synthesis of pre-existing provisions. In particular, the Code invokes and adopts the general principles and content of the Paris Convention in 1883, the first international treaty on patents that still today represents, for the 157 signatory states, one of the main points of reference for international regulation of industrial property. The Convention has been revised numerous times, the most recent in 1967 with the Stockholm Convention that led to the establishment of the World Intellectual Property Organization (WIPO) headquartered in Geneva.

Regulation EC no. 1383/2003 and Regulation EC no. 1891/2004

The reason that drove the community legislator to approve a law in this particular sector is expressed by the second preamble to Regulation no. 1383/2003, where it is specified that the marketing of counterfeit and pirated goods, and indeed all goods infringing intellectual property rights, does considerable damage to law-abiding manufacturers and traders and to right holders, as well as deceiving and in some cases endangering the health and safety of consumers. Such goods should, in so far as is possible, be kept off the Community market. It is also clear that the community legislator, through the adoption of the measures cited above, has intended to create a system that can deal effectively with a phenomenon harmful not only to free trade but also to the health, safety and legal protection of the rights of consumers. The measure in question creates a system of prohibitions and inspections conducted at the borders by the customs authorities in order to prevent counterfeit or pirated goods, if not blocked at the borders of the Member State, from freely circulating inside the Community, bearing in mind that it is certainly more difficult to identify counterfeit goods when they have already entered the single market.

Directive "RoHS"

Directive 2011/65/EC (RoHS 2) establishes regulations regarding restrictions on the use of hazardous substances in electric and electronic equipment (EEE) in order to help safeguard human life and the environment, including the recovery and ecological disposal of EEE waste.
Compared to RoHS 1 (Directive 2002/95/EC), RoHS2 is a directive unto itself (and no longer interconnected to the Directive WEEE): compared to the previous wording, links to the WEEE (Waste of Electric and Electronic Equipment) have been eliminated, for example the list of equipment included in the scope of the directive.

Directive 2001/95/EC "CE Branding"

The CE brand is an indicator that a product complies with EU regulations and allows the free circulation of products within the European market. Affixing the CE brand, the manufacturer guarantees, under its sole responsibility, compliance with all legal requirements established for obtaining CE branding and therefore the suitability of a product to be sold

throughout the entire European Economic Area.

However, not all products must have CE branding. Only those categories subject to specific directives that require the CE branding must be branded as such.
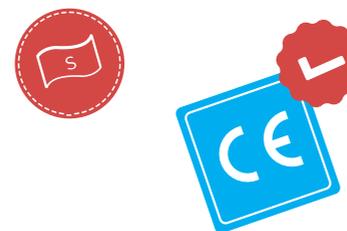
IT PIRACY

With the term "IT piracy" we mean the whole of crimes linked to the illegal use of information technology that aims to infringe private or intellectual property rights. We can divide IT piracy into the following categories:

- **Household piracy:** consists in the duplication of programs, music and video in the household sphere through the use of burning and sharing of material within a close circle of people.

- **Underlicensing:** this is the violation of licensing conditions and occurs when software is installed on more devices than is permitted in the license itself.

- **Piracy perpetrated on the Internet:** through the web, it is possible to sell or offer non-original programs for free; thus, both whoever offers the material and whoever downloads it without having the right commits a crime.

- **Hard disk loading:** this occurs when companies sell devices in which pirated software has been installed.

- **Software counterfeiting:** this consists in the production and sale of illegal copies of the products, often imitating the packaging of the genuine items (packaging, user manuals, license contracts, etc.).

The most common types of piracy are the unauthorized downloading and distribution of music, films, programs and cracking, i.e. the modification of software to remove the protection from the copy, or for obtaining access to an otherwise restricted area.

Regarding software, one must bear in mind that, unlike other products, software is never purchased entirely but the buyer buys only the license to be able to use that program. Consequently, whoever copies a software program without having purchased the correct number of licenses violates copyright laws.

It often happens that consumers, to avoid buying software, turn to different and less costly solutions: looking around on the Internet one can easily find sites that guarantee free software downloads; in reality, these sites offer program downloads that are not only illegal but often damage your computer.

As was noted previously, IT counterfeiting has also spread to the generic category of IT materials considered "consumables," where there are numerous examples of counterfeit items among the product categories, such as:

- toner and drum units in laser printers
- cartridges in inkjet printers

It should come as no surprise that consumables, like equipment for printing and copying, printer cartridges or writable DVDs , have become the target of counterfeiters where the utilization of the "counterfeit item" as is known implies the loss of product requirements with the consequent risks:

- the use of counterfeit consumables (toner) in a printer could lead to the emission of hazardous dust into the environment (where the level of danger is not known).

- The use of counterfeit consumables (toner, drum units or cartridges) implies the voidance of the hardware product labels, specified below.

Another sector hit by IT piracy is the music industry where illegal downloads and unauthorized reproduction of music files cause millions of euros in damage every year.

It is important to emphasize that piracy in the music industry is not only illegal but is a violation of copyright.

However in recent years, thanks also to the development of new technologies, there has been a drop in the phenomenon thanks especially to the numerous sites that offer music streaming.

EU GUIDELINES: DIGITAL AGENDA AND "OPEN DATA" POLICY

The EU special focus on transparency and the social and commercial re-use of data has led to the publication of guidelines for the re-use of public information.

The guidelines strive to support the application by Member States of the PSI (Public Sector Information) directive that must be implemented in national laws by July 2015. In particular, the guidelines better define several topics among which the following:

- the use of open standard licenses available today.

- Priorities for the publication of the data sets.

- The procedure for making published data sets more reusable.

- The application of the marginal cost rule that should be taken into consideration for establishing the cost to be associated to the re-use of information.

A study conducted on the topic (2013 McKinsey report on Open Data) showed that the re-use of public data is capable of developing a considerable economic value (3-5 trillion dollars of which 900 billion in Europe alone). However, some safeguards should be implemented immediately. For this reason, the guidelines also provide indications on the following:

- **Licenses.** The guidelines established when public administrations may allow the **re-use of documents without conditions or licenses,** and when the re-use of personal data is possible. For example, they emphasize that it is always preferable, from the viewpoint of simplification, to use warning-notes instead of structured licenses or at any rate to utilize the open licenses available on the web such as "Creative Commons," without the obligation of creating specific license contracts.

- **Data sets**. 5 data set categories have been identified to which priority **should be given in the publication,** given the interest both of businesses and other potential parties interested in the re-use: Geospace data (maps, postal codes) meteorological and environmental data (weather, land and water quality, energy consumption, emission levels, environmental data in general), transport data (schedules, road conditions, traffic), statistical data on the population (age, occupation, education, health, income), data on companies and business (financial statements, turnover).

- **Costs.** The guidelines address the matter of how public entities, including libraries, museums and archives, must **calculate the re-use value of the data.** In particular, if they are digital documents, the re-use must always be free of charge, while in general cases, the criteria must always be that of paying the expense of the treatment process for the publication, subtracting taxes and other fees, due subsequently for the re-use.

DAMAGES CAUSED
BY COUNTERFEITING

DAMAGE TO HEALT AND SAFETY

Many substances used in the manufacturing of IT equipment may have harmful effects on human health and the environment.

These harmful substances include lead, mercury, cadmium, flame retardant containing brominated and chlorinated materials (PBB, PBDE) and PVC. Fortunately, many of these have been eliminated from electrical and electronic devices as of 1 July 2006 subsequent to community directive (Directive RoHS), while the others are subject to quantitative control.

Additional damage caused by the use of IT equipment regards the environment, related to the amount of electricity that is consumed.

The most significant environmental impact of IT products is that related to the amount of electricity that we use. Today most IT products have low energy consumption modes (sleep/standby) but often people are not aware that these products use electricity even when they are turned off. A study by the Swiss Federal Energy Agency (Bundesamt für Energie) showed that printers use 43% of total electricity in the "off" mode.

While substantial improvement has been reached in the energy saving mode for IT equipment, the same cannot be said for the "on" mode, or, when the equipment is working. The models on the market vary considerably in the energy use in "on" mode (some use twice as much electricity as others) and the "in use" mode which in general causes the highest percentage of total energy consumption.

Even the magnetic radiation emitted by electronic equipment may cause damage to one's health, and for this reason, several product labels (TCO, EU Flower, Nordic Swan) have established limits for this type of emissions.

THE DISPOSAL OF IT EQUIPMENT

Sector regulations set many limits for companies which, if complied with, are capable of sharply limiting the exposure to health risks. However, counterfeit goods are not subject to these regulations and therefore can pose a potentially serious health hazard for consumers.

In fact, legislation on the collection, treatment, recycling and disposal of IT equipment (**Legislative decree 151P/2005**) introduces the matter of the total responsibility of manufacturers for their products: manufacturers are responsible for their products even after the sale and are required to organize all operations necessary for managing them once they have ended their lifecycle.

The provision targets large and small electrical appliances, lighting and telephone equipment, all electric and electronic instruments, toys and leisure time products equipped with electric or electronic instrumentation, medical devices, monitoring and control instruments, automatic distributors and all IT equipment, both household and professional.

The new regulations substantially require manufacturers to re-use or recycle the products at the end of their lifecycle, providing for the removal of substances hazardous to the environment, intervening at the same time at the manufacturing level to limit, within preset limits, the presence of substances that are harmful to the environment.
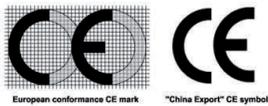
GUIDELINES

How to avoid counterfeit goods

The sale of counterfeit goods is done through different distribution channels in which the counterfeiting is not always clear. It often occurs through markets outside the regular distribution chain whether linked to traditional or virtual commerce. This handbook provides **practical advice for defending yourself from the risk of unknowingly purchasing counterfeit goods and has the aim of guiding the consumer to prevent risks deriving from such purchases** and the use of counterfeit products (or duplicated illegally, e.g. as in the case of software), emphasizing to consumers the importance of information in order to not fall prey to unscrupulous vendors and to avoid contributing even unwillingly to increasing the phenomenon.

In order to fight counterfeiting, the operations of national police forces are fundamental (State Police, Carabinieri, Guardia di Finanza, Corpo Forestale dello Stato and Municipal Police) and when accompanied by the actions of consumers that are more aware of the risks linked to counterfeit goods could prove to be increasingly more effective in the fight against fraud. On this topic, when one is shopping it may be worthwhile to verify the presence of several specially established provisions, such as those listed below.

CE Branding: the shape is that indicated below with 2 semicircles of the same size. The branding may be smaller (at any rate it must not be less than 5 mm, in this case) or larger due to the size of the product.

European conformance CE mark   "China Export" CE symbol

Said branding absolutely must not be confused with the "China Export" brand which is differentiated mainly because:

- the distance between the letters C and E is shorter (the two letters are not written in two tangent circles).

- The shape of the letters is based on an oval structure and not a circular one.

The CE branding is a mark that must be affixed by the manufacturer on all IT equipment but also on other types of products such as toys, sunglasses and eyeglasses, gas or pressurized devices and must be visible and legible on the product or, if this is not possible due to the specific nature of the goods, it must be affixed on the packaging and the accompanying documentation.

Product labels provide a useful guide in establishing adequate standards and, paying special attention to reading the labels and becoming more aware of the guarantees offered by genuine products, is an effective way to reduce the risks deriving from counterfeit products.

For example:

Main product labels

European flower

Personal and portable computers

Nordic Swan

Personal computers, photocopiers, printers, fax machines and multifunction devices

German Blue Angel

Personal and portable computers, monitors, photocopiers, multifunction devices

Energy Star

Personal computers, monitors, printers, photocopiers, multifunction devices, fax machines, equipment for email and scanners

Energy Efficiency Advisory Group (EEAG)

Personal computers, monitors, printers, photocopiers, email equipment, multifunction devices, scanners

TCO

Personal and portable computers, printers, monitors

(Electronic Product Environmental Assessment Tool)

THE SIAE STICKER AND THE MEDIA TO WHICH IT MUST BE AFFIXED

Over the years, the SIAE sticker has undergone various changes that today have made it hard to falsify. The sticker has the following characteristics:

- it becomes unusable once it has been removed.

- Since it is metallic, it cannot be photocopied nor scanned and contains anti-counterfeiting elements that cannot be seen with the naked eye.

- The logo is printed with heat reactive ink, in other words, if heated, even by rubbing with your fingers, it changes color.

- In general, it indicates information on the name of the work, name of the producer, type of media, type of sale permitted, general progressive numbering, progressive numbering of the work.

Copyright laws establish that stickers must be applied on every type of medium containing programs for computers or multimedia as well as on every kind of media (CDs, audio and video cassettes, CD Rom, DVD, etc.) containing sounds, voices or images in movement upon which works or parts of works protected by copyright laws have been recorded to be sold or that are transferred in any capacity for profit.

It is important to remember that, in addition to fighting counterfeiting, the fiscal cash register receipt is your "guarantee," and must always be an integral part of the purchase made, because it serves as a warranty for protection against malfunctioning, manufacturing de-

fects (always possible) and provides for the replacement of the product itself if it is cannot be used correctly. If you have no cash register receipt, in the case of a counterfeit item, you will have no guarantee nor protection in the case of a defective product as well as no protection against damage caused to people, things or third parties.

In the IT sector, among the police forces, it should be specified that the **Postal Police,** as a general rule, has jurisdiction for all crimes related to *computer crime/cybercrime/social engineering and for all criminal actions carried out with the aid of the most recent technological/IT instruments, and/or aim to create damage to the latter.* You can report these cases to the contacts indicated in the institutional website **https://www.commissariatodips.it** .
The operations of the criminal police, while not exclusively related to web intelligence, by way of example, targets crimes (also through the monitoring of chat lines, newsgroups, social networks, etc.) related to: hacking (intrusions, IT damage), telephones (land lines, mobile, VoIP), privacy, postal crimes, copyright (video, music, pay TV), online pedophilia, e-commerce, oversight of radio and television frequencies, fraud, money recycling, credit card or debit card fraud, fraud related to home banking, subversion, terrorism, drugs, weapons and explosives, prostitution.

WHAT TO DO IN CASE OF COUNTERFEIT GOODS

It is important to remember that, in order to have greater guarantees regarding safety, authenticity and the guarantee, you should only buy from authorized sellers (officially authorized by the manufacturers) also for exercising your rights in case of product defects or failure.

WHOM TO CONTACT TO PROTECT YOURSELF

If you the buyer have a reasonable doubt that you unknowingly purchased a counterfeit product, you can report the fact to the following:

Postal Police

They have jurisdiction for all crimes related to *computer crime/cybercrime/social engineering and for all criminal actions carried out with the aid of the most recent technological/IT instruments, and/or that aim to create damage to the latter.* You can report these cases to the contacts indicated in the institutional website, WEB USER SAFETY DESK, reachable at the following address:
www.commissariatodips.it

In the sections dedicated to reports or complaints regarding information system networks, keeping yourself informed by consulting the news or finding the **locations of postal police offices throughout the country,** at the following address
www.commissariatodips.it/profilo/contatti

Directorate General for the Fight against Counterfeiting – I.P.T.O. Ministry of Economic Development

→ **CALL CENTER**

📞 | **+39 06 4705 5800**   🖨 | +39 06 4705 5750

From Monday to Friday from 9:00 to 17:00

✉ | **contactcenteruibm@mise.gov.it**

→ **ANTI-COUNTERFEITING HOTLINE**

📞 | **+39 06 4705 3800**   🖨 | +39 06 4705 3539

From Monday to Friday from 9:00 to 17:00

✉ | **anticontraffazione@mise.gov.it**

→ **INFORMATION CENTRE**

From Monday to Friday from 9:30 to 13:30

For afternoon appointments, contact the Call Center

→ For more information **consult the WEB** at the following addresses:

www.mise.gov.it

www.uibm.gov.it

Custom Agencies

→ **PROGETTO F.A.L.S.T.A.F.F.**

Created and launched in 2004, project FALSTAFF aims at promoting the circulation of genuine goods, conforming in quality and safety, in order to ensure free-market competition. The project FALSTAFF team can be contacted at the following address:

✉ | **dogane.falstaff@agenziadogane.it**

Finance Guard

→ **S.I.A.C. PROJECT**

The Anti-Counterfeiting Information System (SIAC) is co-funded by the European Commission and entrusted by the Ministry of the Interior to the Finance Guard, confirming the central role of the Corps in the specific operating segment.

The initiative is inspired by the knowledge that to deal with an illicit and transversal multi-dimensional phenomenon like counterfeiting a "system" is necessary among all institutional components and actors involved in the fight against the "counterfeit industry". On this basis, the project was designed as a multifunctional online platform composed of several applications, which perform the following functions:

● information for consumers.

● Cooperation among institutions and, in particular, among Police Forces and between these and Municipal Police forces.

● Collaboration between institutional components and companies.

The website of the Anti-Counterfeiting Information System is overseen by the staff of the Special Market Protection Unit, reporting to the Special Forces Command of the Finance Guard.

You can contact the S.I.A.C. staff by calling:

📞 | **+39 08 0588 2221**

or at the address:

✉ | **siac@gdf.it**