

ESMA

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Re: Discussion Paper on MiFID II investor protection topics linked to digitalisation

ANASF, the national Association representing financial advisors authorised to offer investment services off the premises of financial intermediaries (*consulenti finanziari abilitati all'offerta fuori sede*) registered in the official national register pursuant to Article 31 of the Consolidated Law on Finance (Legislative Decree no. 58/1998), would like to express a few considerations regarding the subject of the call for evidence.

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ONLINE DISCLOSURES

1. Do you already layer information provided to (potential) clients?

We agree with the Authority's analysis. We would like to point out that there is a strong lack of this type of structuring. We hope that this criterion will be determined, which is perfectly understandable and useful for citizens. This layering must be well defined and cannot be overcome.

2. Do you create bespoke content and information for existing clients based on their preferences, risk profile and/or investment objectives?

Thanks to the personal relationship with customers, financial advisors create tailor-made content and information, unlike other intermediaries.

3. What type of information would you deem vital to show in the first layer of information to investors with regard to the different instruments you offer?

The salient features of the recommended product, which allow customers to identify the tool: for example, the product management style, the area, the sector, the benchmarks.

4. What type of information do you observe your clients treat as the most important? (if known)

The salient features mentioned above that allow the customer to be truly aware of the investment they are about to make.

5. Which information on costs and charges ‘belongs in the first layer’?

Information on costs and fees (entry and exit costs, management and over-performance fees) should not appear in the first layer, but in subsequent layers. In the first layer of stratification, the information that must appear is that indicated in the previous question.

6. Do you provide interactive or other graphic representations of information on financial instruments or investment services to your clients? Do clients perceive them as useful aids?

Yes, in general, mini video or audio and information spots are mainly used. These representations are seen by customers as an integral part of the performance of the advisory.

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7. Should the vital information need to be the same for all MiFID financial instruments, or can it be different depending on the type of instrument? If so, how?

For some time now, ANASF has been calling for the advent of the level playing field. It is essential that each type of tool has the same "cognitive" characteristics and allows the customer the same type of in-depth analysis, through a standard (the functional layers or grids presented in the Discussion Paper).

8. Do you already provide visual aids (support) to (potential) clients in order to help them better understand complex financial concepts, for example the use of a glossary? If you do, please mention which and explain.

Several financial advisors provide support to increase the degree of knowledge of customers: documents, videos, press and media extracts, periodic mailings. We believe that the glossary is not an effective tool. The financial education provided by advisors goes beyond explaining the products. It is important for customers to understand the context, to have an overview. If they understand the context, they also understand the product.

9. How do you measure the effectiveness of the online disclosures you provide to clients? Do you identify problems clients encounter with language or structure of your disclosures? What are the most common issues identified?

We assess the effectiveness of the online disclosures provided to customers by measuring their response, and therefore by the interactions that follow. The possibility of being able to use a financial advisor allows customers to clarify any doubts.

The most common issues are related to the understanding of financial concepts and the technical terminology used, and depends on the basic financial literacy of the customer.

10. What is your positive and negative experience with layering information?

Our experience is positive. This layering saves time and therefore leads to greater effectiveness of the advisory provided. In addition, layering is important because it allows the information contained by the different layers to be combined in different ways, adapting communication according to the recipient (particularly according to age).

MARKETING COMMUNICATIONS

11. Do you currently have an overall register of marketing practices used? If you do, are there practices you follow-up on more frequently and if so, how do you decide which practices you follow-up on?

Financial advisors do not have these types of registers.

12. How do you ensure that marketing communications only reach the intended target market (especially in the case of higher risk/higher complexity products)?

The target market is underutilized: marketing communications are aimed at an indistinct audience of recipients. In fact, it is difficult to personalize communication, as this would result in an excessive cost.

13. How do you monitor the effectiveness of your marketing practices? For example, do you use targets such as clicks, views and/or number of complaints or how many new clients are part of the appropriate target market? Or do you test their effectiveness through consumer testing?

The use of data leads to aggressive marketing, which leads savers back to the same products over and over again.

CONTENT MARKETING AND SOCIAL MEDIA

16. What kind of educational material do you produce and publish?

We produce and use material to support financial education activities, separate and distinct from marketing communications: generic material concerning financial education, market information, geopolitical analysis. We believe that the difference between communication in the broad sense (which includes financial education activities) and marketing communication aimed specifically at product placement should be better defined.

17. Do you have educational material available to investors in which you actively promote specific instruments and/or firm(s)?

It exists for financial intermediaries, not financial advisors.

18. Do you use content marketing on social media or in other types of video material?

In general, yes: some financial advisors use social media.

AFFILIATES AND SOCIAL MEDIA

19. Do you make use of affiliates or affiliate marketing? Why, and if not, why not?

No, financial advisors do not routinely use it. The “*finfluencer*” linked to the intermediary is subject to the rules of the intermediary: the problem is the area not affected by the regulations, the subjects outside these conventions. An influencer who makes financial recommendations is engaging in abusive activity, which is a criminal offense. This thesis should be adopted and harmonised at European level.

Given the specificity of the rules in Italy, it is currently unthinkable to use affiliated parties as described. In fact, Article 78 of the Regulation laying down rules for the implementation of Legislative Decree no. 58 of 24 February 1998 on intermediaries adopted by Consob with resolution no. 20307 of 15 February 2018 and subsequent amendments, provides that the informing party must have adequate knowledge and skills, as established by the ESMA Guidelines on the assessment of the knowledge and experience.

DIGITAL ENGAGEMENT PRACTICES (INCLUDING GAMIFICATION)

27. Do you have a system in place to avoid clients from trading excessively, if so what kind? For example, do you contact or even (automatically) warn users when they trade on a very frequent basis?

Yes. Intermediaries have alert and internal control systems that financial advisors use. The platforms are separate. There are intermediaries who exclusively use trading platforms and intermediaries who use financial advisory platforms that do not have any element of gamification.

29. Do you use gamification techniques for client engagement?

There are two types of gamification techniques: one for educational and/or utility purposes, and one related to online investments and trading. The first is consistent with the provisions of the legislation, while the other escapes the rules: the intermediary is not responsible for the investor's operations. There should be a disclaimer when platforms advertise their online trading platforms.

CHOICE ARCHITECTURE AND NUDGING

31. If you use nudges, please provide information on the process implemented to determine, validate and control these nudges.

In our market, their control is an obligation, especially if in digital form. Upgrades are also frequent.

35. Do you observe increased trading activity induced by the use of the choice architecture?

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Some intermediaries allow much more openness with respect to this issue: the customer can also buy and sell funds independently, as well as stocks and bonds; In other cases, however, this is not possible. It depends on the type of service provided. In any case, an individual who does not understand the processes underlying the investment activity should not be able to trade indiscriminately. The increase in trading activity in an advisory relationship is a "defeat" for the model and an element of confusion between the advisory and trading activities, which do not coincide in terms of methods and objectives.

PUSH NOTIFICATIONS

36. What kind of push-notifications do you send? - For example, what type of information is included, are the push notification bespoke to the consumer?

Financial advisors do not send these types of notifications.

DARK PATTERNS

37. Which examples of dark patterns have you encountered?

“Analog natives” struggle to find documents after the relationship closes; procedures are not standardized and are often designed in such a way as to hinder the user. We believe that a general systematization is needed: to do this, it is the legislator who must establish that any digital service must provide the same time for the registration and un-registration procedure.

38. Do you use or have you encountered any positive nudging in the interest of the client? Could you provide some examples?

Yes, but it depends on the intermediary.

39. Have clients complained of difficulties related to the online interface? For example, difficulties in closing their accounts?

Yes, it has happened frequently with crypto-asset trading platforms.

ANASF, in thanking you for your attention, is at your disposal for any queries you may have.

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Best Regards,


Luigi Conte
Presidente ANASF