



ASSOGESTIONI

associazione del risparmio gestito

Roma, 30 gennaio 2007

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Our ref: Prot. N.52/07/

Response to CESR call for evidence on the supervisory functioning of the Prospectus Directive and Regulation.

Assogestioni¹ welcomes CESR's invitation to contribute with our views to complete the important task of making an overall assessment of the Prospectus regime after one year of application and would like to submit the following evidence for CESR's evaluation with specific reference to the Italian market of close-end funds.

With reference to this first area of main interest (*"Obstacles to the fluid functioning of the passport and/or divergent practices in Member States that pose a risk for the proper functioning of the single market"*), it should be noted that in Italy prospectus schemes for close-end funds (which are disciplined under Consob Issuers Regulations, no. 11791 dated 14 May 1999), are substantially different from the prospectus schemes and from the registration document for securities issued by collective investment undertakings of close-end type provided by the Prospectus Directive (Directive 2003/71/EC) and the Prospectus Regulation (Regulation (EC) No.809/2004 of 29 April 2004).

The Prospectus Directive disciplines, among others, the prospectus to be published when securities issued by collective investment undertakings of close-end type are offered to the public or admitted to trading on a regulated market.

However, it should be taken into account that in Italy close-end type collective investment undertakings are characterised by a particular legal structure and nature, which is different from that adopted by other EU Members States, **as they can take be only of contractual nature.**

The difficulties that have been encountered in the implementation of the Prospectus regime and that still create a discrepancy between the prospectus adopted in Italy by close-end collective investments undertakings and the ones adopted in the other EU Member States, are mainly due to the fact that the Prospectus regime privileges close-end collective investments undertakings of corporate nature rather than of contractual nature (which entails the constitution of an independent pool of assets, separate for all intents and purposes from the assets of the asset management

¹ Assogestioni is the Italian national association for the investment fund and asset management industry and represents the interests of 148 members who currently manage assets valued over 1.000 billion euro.



company and from those of each unit-holder, as well from any other assets managed by the same company) in consideration of the fact that the corporate structure prevails in Europe.

We therefore observe that the typical structure of Italian quoted close-end funds (independent and separate pool of assets, divided in units, which belong to individual participants) and above all their peculiar legal nature (i.e. contractual funds), has represented a practical obstacle, both at the implementation and at the interpretation level, to the fluid and correct functioning of the European prospectus passport.

We hope that our evidence will be of assistance to CESR's exercise and remain at your disposal for any questions or clarification.

The Director General