NAFOP CONTRIBUTION TO THE CONSULTATION PAPER

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NAFOP
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Association profile

NAFOP was founded in 2005, it is the Italian association of "Independent Fee-only financial planner" and collects approximately 300 members (individuals and legal entities) throughout the country.
Its aim is the regulation, the protection and development of the profession, as well as the spread of principles that regulate its activity. The key message revolves around the idea of fee-only remuneration.

This expression, borrowed from the US market, identifies a professional remunerated exclusively by the Customer and therefore free of any conflict of interest. Fee-only advisor does not receive commissions / fees from banks, investment companies, insurance companies, asset management companies and is not tied to a network product sales. In this way it guarantees its customers total transparency and impartiality.

Independent financial advisors "NAFOP associated" commit themselves to become a landmark for the investors eager to find a way for their own investment decisions. Their relationship with customers is based on trust, as they work in the best and exclusive interest of clients, never taking possession of financial assets that remain in the clients' bank deposit.

Mission

NAFOP defines forms and procedures for the conduct of the independent financial advisory. Currently the agenda priority is to actively contribute to the establishment of a professional association that protects and guarantees the profession.
In addition, the Association is committed to:

- Spreading an ethical code of conduct, shared and understood by all members.
- Representing the interests of the members at institutional and legislative levels by submitting proposals to regulators.
- Promote collaboration between institutions, associations and organizations that have common goals.
- Become a benchmark in the field of rating, certification, analysis, evaluations, services and financial products, pension and insurance against companies, individuals, organizations, institutions, governments, banks, insurance and media.
- Punish misconduct and noncompliant-behaviors with the Regulation and code of ethics of the members.
- Promote the development of proper and widespread financial culture, in terms of planning and protection of personal, corporate and institutional assets.
- Publish every year scenario analysis and market trends on the independent financial advisory in Italy and around the world.
- Carry out research, training and assistance in the professional sector.
- Protect the interests of the individual and / or community of investors, representing them in the assemblies, on the boards and in any other place.

Code of Ethics

Members are required to accept and sign the Code of Ethics that collects the principles underlying the activities of the Association: integrity, objectivity, expertise, impartiality, privacy, cooperation, fairness, diligence.

- Impartiality: a fee only financial planner will communicate investors all information about its professional relationship, in order to rule out any form of conflict of interest.
- Integrity: a fee only financial planner will provide financial services honestly without be affected by personal gain ambitions.
- Objectivity: a fee only financial planner will provide investors all appropriate information on risks, costs and commissions about financial products.

- Expertise: a fee only financial planner will provide financial advisory with appropriate skills and professional grounding. NAFOP fee only financial advisor must take care of its financial background with the aim to improve its expertise.
- Privacy: a fee only financial planner must protect investor's confidential information.
- Cooperation: a fee only financial planner will collaborate with all investor's intermediaries in order to achieve a perfect snapshot of customer financial position.
- Fairness: a fee only financial planner must respect other professionals and accept a fair competition.
- Diligence: a fee only financial planner will provide advisory in a complete way, after getting all information about investor's financial situation.

Before addressing the issues highlighted in the ESMA Consultation Paper, we would like to share some comments on the professional figure that our Association represents: the independent financial advisor (may be a legal person or a natural person) who provides only the service of investment advice without conflicts of interest and is paid solely on a fee basis by his client. Our members do not receive commissions or inducements from any broker or product company, as they carry out their professional activities for the exclusive benefit of their customers, by whom they are directly remunerated.

Any person working in contact with investors has been living in a new context, marked primarily by the concern for the safety of its own savings and the growing distrust towards the financial system. In this context, the difference between the fee only independent consultant and other activities with "consultancy" content - directly or indirectly focused to the placement of products or other investment services - clearly emerges.

This is not just putting emphasis on conflicts of interest, as it is known that the main factor of real return is risk, but it is to emphasize that there is an activity which comes necessarily first to investment, that is to define the investment aims, to measure risks, and to mindfully consider those risk necessary to achieve such aims; this activity cannot be condensed into a form and is, for its nature, typically professional.

It is a business that fits naturally to a self-employed professional because it requires a relationship of knowledge and trust with the client that has its ideal setting in a personalized continuous relationship which is free from conflicts of interest, which is typical of this activity.

Any organization that has commercial purposes is pressed by the need for standardization, by the need to have a link between sales and product design and staff turnover, which poses serious difficulties for the activities we have briefly outlined.

A professional has the time and means to encourage and recruit the process of realistic formation of goals together with a realistic perception of risk. He will therefore contribute to the implementation of a portfolio which has, among its determinants, the development of mutual understanding and awareness of the customer, as well as his actual ability to operate in financial markets.

In view of the complex needs of this process, the profiling of the client set by MiFID is only a minimal protection scheme, a scheme that can and should be imposed on those who carry out activities involving implied conflicts who do not reside only in the commission of the products and services, but in the business and organizational needs of the system of financial distribution. Quite different is the position of the "professional" independent consultant who is paid only by fee.

Imagine a world where the prescriptions of the drugs may be made only by pharmaceutical companies or their distributors. Imagine having to sell a house and discover that the value of buildings is determined only by builders or real estate agents.

So far, even those who wished to seek advice on their investments, could seek advice only from persons with interests in conflict to their own.

MiFID highlights the concern to identify and regulate the conflicts of interest between operators and clients about investments, in the conviction that such conflicts are potentially harmful to the investor.

The fee only financial advisor is defined by the absence of interests in conflict with those of the investor. Today, next to the advisory offered by persons "in conflict", it may be placed advisory without conflicts of interest, to the benefit of savers and the financial market transparency. The latter type of advisory is provided as part of an activity that is purely professional and is therefore paid only by fee.

The real question is about the concept of independence. It is the real novelty, which can bring benefits both to investors and financial markets.

All professions, moreover, have a scheme to remove conflicts of interest, proving that they are in conflict with the advisory itself and are detrimental to the public, even beyond the will of individuals.

In Italy, for example, practicing as a chartered accountant is incompatible, inter alia, with the exercise of trade in one's own name or on behalf of others, with intermediary businesses, with stock brokerage, etc.. Registration for this practice is generally prohibited to public employees.

The same can be said of the legal profession, which is incompatible, inter alia, with the exercise of the profession of notary, with the exercise of trade in one's own name or on behalf of others, with the profession of bank manager, broker, with any employment or office with a salary paid from state budgets, from provincial or municipal budgets, from Senate or House budgets , etc..

As for an Architect in Italy, the standards of professional ethics dictate, when they exercise the profession, that they may not be directly or indirectly involved with the construction companies that provide or direct the work designed for the contractor, nor receive any compensation from third parties, whatever the cause. The same applies if they are also involved in promotional activities of real estate transactions.

ESMA Consultation

As you know, in the context of the transposition of the EC Directive 39/2004 and 73/2006 EC and in particular under Article 3 of the EC Directive 39/2004, the Italian Legislator has specifically recognized this business role. Although it is not qualified as an investment firm, it is authorized to provide investment advice (based on Articles 18-bis and 18-ter of Legislative Decree 58/1998), on condition that it provides this service only and does not hold any money or financial instruments of customers. The Italian "Department of Economics and Finance" has set the requirements of such professionals with the decrees MEF 24 December 2008, n. 206 and 5 April 2012 No. 66. Consob ruled their activities with Resolution 17130. Thereby, the "fee-only financial advisor" role was recognized as a specific professional in financial consultancy.

NAFOP is keen to express its view on the consultation in question, first of all expressing its support for the aim to elevate and standardize the criteria for the assessment of knowledge and competence of the investment firm's personnel giving investment advice or information about financial instruments, investment services or ancillary services.

It is obviously well known to all members how dangerous can be for investors to receive financial advice from firm's personnel without appropriate knowledge and competence. It is quite frequent that NAFOP associate analyzes the financial situation of customer and become familiar with how it has developed over time as well as the correspondence with customer expectations. The failure to satisfy the expectations of the investor is very often due to incomplete information or to the use of non-professional method of analysis that may be well rooted in the insufficient training of personnel themselves.

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In terms of the general guidelines presented on consultation, NAFOP proposes that the distinction between investment advisors and other staff giving information on financial instruments, structured deposits and services to clients should be further clarified by distinguishing in the first category who performs advisory services on an independent basis, the way we would later clarify answering every single questions.

In terms of the qualification requirements of the first two categories – i.e. those providing advice on investments on an independent basis and those providing advice on investment on a non-independent basis – we think it is useful that the implementing rules set the principle that in the next years a degree in economics and finance would be required.

It should not be of course an immediate goal. First of all, it should be ensured that this requirement will not ever be required - now or in the future - to those who already exercise such activities at the date of application of these guidelines. This is both for reasons of fairness and for reasons of training costs borne by individuals and businesses.

Moreover, it should be ensured that those who start to provide advisory after the application of new regulations will have a reasonable period, ideally approximately ten years, to integrate their qualification with specific training courses, not necessarily at university level.

However, from a moment sufficiently far in time, we believe it is appropriate that all member States will guarantee that no subject can start to provide such advisory service without a university degree in **economics and finance.** It is required by an adequate investor protection in a context of increasing complexity of the instruments and markets.

Having clarified these points, we answer the following specific issues where we believe we can make a useful contribution.

Q1: Do you think that not less than five consecutive years of appropriate experience of providing the same relevant services at the date of application of these guidelines would be sufficient to meet the requirement under knowledge and competence, provided that the firm has assessed their knowledge and competence? If yes, please explain what factors should be taken into account and what assessment should be performed by the investment firm. Please also specify whether five consecutive years of experience should be made in the same firm or whether documented experience in more than one firm could be considered.

Nafop considers that not less than 2 years in the last three and in any case five years of continuative experience in the last 10 years would be sufficient to meet the requirement. Indeed, it seems likely to produce injustice and diseconomies to not consider that appropriate personnel are already engaged in the activity in question, for which it will be introduced more selective criteria.

Nafop also believes that the experience gained by working for more than one company is a factor that increases rather than decreases the professionalism of the subject, provided that the time period in each company is not too short.

Q2:ESMA proposes that the level and intensity of the knowledge and competence requirements should be differentiated between investment advisors and other staff giving information on financial instruments, structured deposits and services to clients, taking into account their specific role and responsibilities. In particular, the level of knowledge and competence expected for those providing advice should be of a higher standard than that those providing information. Do you agree with the proposed approach?

We consider that there exists a clear difference between "objective independence" (i.e. independence of the advisory service) and "subjective independence" (i.e. independence both of the advisory service and of the

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advisor who provide it) and we think that the "subjective independence" is the one that better protect the client from conflicts of interest.

NAFOP believes that it should be required an additional and higher level of knowledge, competence for those who perform the service of investment advice on an independent basis.

These entities should be required greater capacity to analyze the characteristics of different financial instruments and services issued by different market players, evaluating the entry and management costs of these instruments, the counterparty risk, the client's ability to manage its portfolio with or without the help of a consultant, the ability to measure individual investment choices in a context of overall wealth planning.

Q3: What is your view on the knowledge and competence requirements proposed in the draft guidelines set out in Annex IV?

Since that one of the aims of the advisory on an independent basis is to make it clear to the client all the features and costs of the products presented to him, the consultant should be supported in order to have access to costs, margins and incentives that the company (banks or other investment firms) - for which he works - receives from each investment.

Q4: Are there, in your opinion, other knowledge or competence requirements that need to be covered in the draft guidelines set out in Annex IV?

Regarding the requirements to the staff providing information, we notice that the Art. 21 letter b) requires to understand the impact of economic indicators etc. on the value of the instruments. It seems that this kind of assessments tend to deviate into the consultancy sector, which should be carefully reserved for the staff entitled to provide advice on investments. The appraisal of the possible future evaluation of instruments has directly to do with the adequacy assessment, which should be reserved for trained personnel.

In this respect, we suggest that the training of personnel who provide information should be provided by staff qualified for giving advisory on investment matters, which is able to better understand the benefits and risks associated with both the information to be collected by the investor and on investor, and with the information provided to the investor himself.

Likewise, the training of personnel who provide advisory service on investments, should be made by personnel qualified to provide advisory on an independent basis.

As of the requirements for personnel performing the advisory service (Articles n. 22 and 23), reiterating that they should be higher for those who provide that service on an independent basis, we recall what was written above and point out some further points.

Those providing advice on an independent basis should be first fully capable both to access to large and comparable information about the instruments offered by market participants different from the parent group - organizational requirement – and to assess this information.

As the adequacy assessment and the financial planning will likely be part of the tasks of this staff, it should be fully able to suggest a complete and proper management of the client's portfolio, often divided between several intermediaries.

Therefore, this staff should know in depth the ways in which different brokers and individual market participants - even outside the group for which he works - relate to investors. For this reason, coming from a consultancy experience provided with the "subjective principle" explained before should be considered to be privileged title in order to train the staff that provides advisory.