

Milan, 22 December 2021

ESMA
201-203 Rue de Bercy
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Prot. n. 62/21

Re: ASSOSIM contribution to ESMA *Call for evidence on the European Commission mandate on certain aspects relating to retail investor protection*

ASSOSIM¹ welcomes the opportunity to provide comments on the ESMA's Call for evidence in subject as better detailed here below.

Q1: Please insert here any general observations or comments that you would like to make on this call for evidence, including any relevant information on you/your organisation and why the topics covered by this call for evidence are relevant for you/your organisation.

The last few years have been characterised by the entry into force of significant pieces of EU financial regulation such as PRIIPs Regulation and MiFID II/MiFIR. The provisions contained therein aimed, *inter alia*, to ensure investor protection and to provide retail clients with understandable and useful information for assuming investment decisions.

However, we note that the overall experience with the implementation of the aforementioned rules is not fully satisfactory so far. As a matter of fact, the objective of ensuring a broad disclosure to retail clients was not completely reached given that the contents provided are often not fully understandable because of their complexity (which comes from equally complex rules). With particular reference to our country, this situation is worsened by the fact that Italian investors generally have a low level of financial knowledge combined with high return expectations (and low risk perception). Therefore, disclosure obligations on intermediaries have proven to be of low utility given that the client usually has no (or has little) financial background to effectively understand the contents of the documentation provided.

¹ *Associazione Intermediari Mercati Finanziari - ASSOSIM* is the Italian Association of Financial Markets Intermediaries, which represents the majority of financial intermediaries acting in the Italian Markets. Assosim has nearly 80 members represented by banks, investment firms, branches of foreign brokerage houses, active in the investment services industry, mostly in primary and secondary markets of equities, bonds and derivatives, for some 82% of the Italian total trading volume.

The above is very well evidenced, *inter alia*, in a report from OECD issued in 2020 and named “International Survey of Adult Financial Literacy”. Such report shows that in Italy a low proportion of adults was able to reach the minimum target score of financial knowledge and that our country ranks 25th out of 26 countries considered as regards the level of financial literacy.

Given the above, we believe that a first step to improve financial education could be the introduction of financial basics during schooling years. We are aware that this process will take some time to come to adequate results; however, the knowledge gap cannot be managed meanwhile by introducing further disclosure requirements, which would basically only entail additional costs for financial intermediaries with no tangible benefit for investors.

An additional point of attention is that, in the current context of low interest rates, the aforementioned low-skilled investors tend to invest in riskier products because of their high return expectations not accompanied by a proper risk perception. This situation is amplified by a decrease in the offer of plain vanilla bonds by issuers/manufacturers because the latter often label such instruments as “professional investors only” to avoid complying with the KID obligations (which are burdensome and costly).

Q15: Should the relevant MIFID II requirements on information to clients be adapted in light of the increased use of digital disclosures? If so, please explain how and why.

The use of digital disclosures through interactive tools, infographics and even video content can represent a benefit for clients as these tools can be more engaging and allow to achieve the intended effect more efficiently as they are easier to understand and can provide information in a more timely and convenient manner.

However, we believe that when information is disclosed via digital means is somewhat important that:

- Certain key information (e.g. fees, charges, inducements, information about performances, etc.) are displayed in ways which highlight their prominence;
- Information format is suitable for different kinds of devices;
- Appropriately labelled and relevant hyperlinks are used to provide access to supplementary information;
- Use of hyperlinks is limited (e.g. one click only – no cascade of links);
- Contracts cannot be concluded until the investor has scrolled to the end of the document.

Q16: Do you see the general need for additional tools for regulators in order to supervise digital disclosures and advertising behind ‘pay-walls’, semi-closed forums, social media groups, information provided by third parties (i.e., FINfluencers), etc? Please explain and outline the adaptations that you would propose.

Regulators should have IT skilled personnel and adequate tools to effectively supervise social media when providing financial information addressed to the general public or to semi-closed forums.

Q17: To financial firms: Do you observe increased interest from retail investors to receive investment advice through semi-automated means, e.g., robo-advice? If yes, what

automated advice tools are most popular? Please share any available statistics, data, or other evidence on the size of the market for automated advice.

Q18: Do you consider there are barriers preventing firms from offering/developing automated financial advice tools in the securities sectors? If so, which barriers?

Our members have not observed an increased interest from retail investors to receive investment advice through semi-automated means such as robo-advice.

With particular reference to robo-advice, the limited use of such kind of service could be found, for example, in the lack of awareness about its provision and in the greater trust in human interaction. In addition, a low level of digital culture could also have affected the use of robo-advice.

Q19: Do you consider there are barriers for (potential) clients to start investing via semiautomated means like robo-advice caused by the current legal framework? If so, please explain and outline what you consider to be a good solution to overcome these barriers

We believe that there are no barriers for clients to start investing via semiautomated means.

Q22: Do you consider that the existing MiFID regulatory framework continues to be appropriate with regard to robo-advisers or do you believe that changes should be added to the framework? If so, please explain which ones and why.

We think that the existing MiFID regulatory framework is appropriate with regard to robo-advisers. As a matter of fact, we believe that a legislative framework should be as much as possible technology-neutral in order to properly address IT developments and financial business initiatives.

Q23: Do you think that any changes should be made to MiFID II (e.g., suitability or appropriateness requirements) to adequately protect inexperienced investors accessing financial markets through execution only and brokerage services via online platforms? If so, please explain which ones and why.

We think that no changes are necessary.

Q24: Do you observe business models at online brokers which pose an inherent conflict of interest with retail investors (e.g., do online brokers make profits from the losses of their clients)? If so, please elaborate.

We don't observe such business models. We believe that the applicable rules on conflict of interest properly safeguard retail clients of online brokers.

Q25: Some online brokers offer a wide and, at times, highly complex range of products. Do you consider that these online brokers offer these products in the best interest of clients? Please elaborate and please share data if possible.

Clients of online brokers generally have access to a wide range of financial instruments (from plain vanilla to derivatives) traded on trading venues. This allows clients to build a diversified

portfolio in line with their investment profile and preferences. Therefore, we don't see specific issues or increased need of protection for such kind of clients.

Q28: Are you familiar with the practices of payment for order flow (PFOF)? If yes, please share any information that you consider might be of relevance in the context of this call for evidence.

According to the information available to us, PFOF is not used by our members. However, we note that discussions about such practice often relate to its compliance with conflict of interest/inducement framework. In this respect we think that such framework is adequate to address and manage any possible conflict of interest also in the case of PFOF. In addition, we believe that best execution rules allow to avoid prejudicial effects on clients when such payments are made. Finally, we acknowledge the ban on payment for forwarding client orders for execution provided for in article 39a of the EC draft proposal of regulation amending MiFIR.

Q35: The increased digitalisation of investment services, also brings the possibility to provide investment services across other Member States with little extra effort. This is evidenced by the rapid expansion of online brokers across Europe. Do you observe issues connected to this increased cross-border provision of services? Please elaborate.

We note that the increased digitalisation of investment services fostered the growth of a large number of unregulated entities soliciting potential investors on a cross-border basis through emails, pop-up aids, social media, etc.

NCA's usually deal with such misconducts by blacking out the relevant websites; however, we observe that such remedy is not very effective given that the same entity may operate through many and/or newly-generated websites. Therefore, given the worrying and growing dimensions of these fraudulent activities, we believe that stronger remedies and more coordinated actions by EU NCA's should be provided for in order to ensure an effective protection to retail investors.

Q37: What are, in your opinion, the risks and benefits connected to the use of social media as part of the investment process and are there specific changes that should be introduced in the regulatory framework to address this new trend?

Social media platforms can significantly influence retail investment choices. Furthermore, in certain cases messages inviting to buy specific financial instruments have features very similar to those of a public offer. Likewise, messages inviting to sell specific financial instruments may jeopardise market integrity. In all these circumstances, assessments have to be made to verify whether such conducts may entail the carrying out of regulated/supervised activities.

Q44: What are, in your opinion, the main risks that might originate from the development of open finance? What do you see as the main risks for retail investors? Please explain and please describe how these risks could be mitigated as part of the development of an open finance framework.

With respect to the development of open finance, we note that all the parties involved should meet high standards in terms of, for example, IT security, privacy and governance/risk management policies. We acknowledge that open finance encompasses both regulated and unregulated/not supervised entities. Therefore, the latter and their activities may introduce risk

issues in the financial system whose management is not currently dealt with. Such issues should not be addressed by means of the introduction of -de facto- ineffective requirements on financial intermediaries.

We remain at your disposal for any further information or clarification.

Yours faithfully,



Gianluigi Gugliotta
Secretary General