

Acepi questions Consob's guidelines on distribution and disclosure, rolls-out 'certificates map'

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Dario Savoia, Acepi

The new rules regarding the disclosure of information on financial products to retail customers via a new information document have been questioned by the Italian Certificates and Investment Products Association (Associazione Italiana Certificati e Prodotti di Investimento - Acepi). According to the association they are neither appropriate nor necessary 'as an additional tool to support more clear and effective disclosure to retail customers of the characteristics of financial products, where there are already tools or documents enabling pursuing these objectives, such as the Kid for Priips and the Ucits Kiid.'

In its response to the Italian regulator's (Commissione Nazionale per le Società e la Borsa - Consob) consultation regarding the new disclosure rules for financial products, the Italian trade body pointed that the provisions on the regulator's report in relation to the disclosure of information to allow retail investors to reach an informed decision on the characteristics of financial products and the merits of the investment overlap with existing rules regarding investor protection adding that its position regarding effective disclosure (based on international research and regulatory trends) lay all in the sense of reducing the number of information documents made available to 'retail investors, to avoid confusion, and more generally, on the importance to give priority to quality over quantity of the information'.

The new "product information document" ("*scheda prodotto*") envisaged by Consob is not necessary nor appropriate as an increase of disclosure documents does not help retail investors to better understand financial products, as it generates confusion and duplication of information (in particular in Italy where distributors are already obliged to provide their clients with another "*scheda prodotto*" for illiquid products), according to Dario Savoia (*pictured*), chairman of Acepi.

"This document would not be standardised (like the Kid for Priips and the Kiid for Ucits) and would not provide product information comparable to the one of the existing disclosure document (in terms of degree of risk)," said Savoia. "[But] it would create heterogeneous competition conditions on products and distribution channels between Italy and the other European countries, and introduce further uncertainty in a legal framework already facing interpretation and application difficulties."

The potential coexistence of the 'product information document' promoted by the Consob and the Kid/Kiid proposed by the European Securities & Markets Authority (Esma) would involve a number of inefficiencies and risks such as adding confusion among investors, the lack of standardization and comparability of information between products, the creation of heterogeneous conditions of competition

between the various products and obstacles to the creation of an internal market for financial services and products, as well as difficulties around the interpretation and application of the rules, according to Acepi.

The association also believes that the 'challenge of effective disclosure' will play not only on the ground of the guiding principles, but also, if not more, on that of the concrete ways in which these principles are translated into practice, and regulation.

The trade body has also responded to a Consob consultation on the evaluation and verification of trade policies, the efficiency of internal rules in the provision of investment services, and the criteria used in the selection of intermediaries for the distribution of financial products by issuers and intermediaries, and pointed that there are already a number of 'strict rules of conduct' relating to the 'distribution' of financial instruments to retail investors.

According to Acepi, existing rules such as the intermediary's duty to behave with integrity and transparency in the distribution of illiquid financial products (Consob Notice on illiquid products - March 2009, no. 9019104); the distribution of complex financial products to retail clients (Consob Communication of 22 December 2014, n. 0,097,996); as well as financial instruments distributed through its network of bank issuers (see Communication on illiquid products and Consob Communication of 24 November 2015, n. 0,090,430), cover all the provisions included on Consob's consultation report and questioned the effectiveness of a set of rules that also overlap with Mifid's corporate governance rules on complex products.

'This Model OPV is not even suitable to influence the fee structure adopted, which, indeed, is determined solely by the issuer on the basis of (and as compensation against) the specific investment service provided,' stated Acepi's report.

The purpose of the consultation is to guarantee more effectively "conditions of symmetry and informative correctness" on

the market in relation to investment recommendations, while making Consob's management of information on the recommendations more efficient and more effective, stated the Consob in its consultation report.

However, according to Acepi, although the adoption of the Model OPV will help ensure visibility and provide transparency around the absence of illiquidity of financial instruments (such as bank bonds) 'it is equally true and self-evident that such visibility and liquidity of financial instruments can also be guaranteed by means of different modes of supply, such as traditional placement through issuers' own distribution networks or third party distribution following the admission for listing of the securities'.

In addition, the Italian trade body noted that the recommendation to use the OPV model to make public offers in Italy would introduce a 'de facto obligation' to concentrate trading of financial instruments on the primary market, which is clearly contrary to the rules laid down in this regard by Mifid and Mifid 2.

Acepi believes that the distribution method via the exchange recommended by Consob does not add much value compared to the distribution method already used on the Italian market, i.e., the "traditional" method - out of a multilateral trading facility - with placement made through the issuer's or third parties' distribution network followed by the admission to listing/trading of the offered securities on the issue date or immediately thereafter, depending on the type of product, according to Savoia.

"This is because the purposes pursued by Consob, i.e., protecting Italian retail investors' interests by ensuring transparency and correctness of the investment services received by Italian intermediaries and liquidity to the security offered, are achieved through several legal and regulatory instruments already in place, e.g., rules on illiquid products and on complex products, "*scheda prodotto*", Kid/Kiid), and not through the distribution method," said Savoia.

In addition, the Italian trade body has also released a certificates map as a 'useful tool' to explore the various typologies of certificates available in the Italian market. Acepi's certificates map consists of two sections. The first section describes each of the four categories a structured product may belong to, depending on its degree of capital protection including products with capital protection; products with conditional capital protection; products without capital protection; and leverage products.

The map aggregates the certificates available in the market by each category which includes various product types (equity protection, bonus, express, etc.).

In this way it is possible to identify the relevant features of each product even when

their commercial names do not include sufficient information,' stated Acepi.

Click in the link to read Acepi's response to the Consob consultation on the [distribution of financial products](#) and the new [product information document](#) (in Italian).

Click in the link to view an A4 printing version of [Acepi's Certificates Map - Jun 9, 2016](#). **SRP**

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