CONSOB
COMMISSIONE NAZIONALE PER LE SOCIETA' E LA BORSA

CONSOB STATEMENT ON CASES OF EXCEPTIONAL VOLATILITY IN THE TRADING OF STOCKS AND THE USE OF SOCIAL FORUMS AND WEB TRADING PLATFORMS

Consob is taking part to the international debate, with other securities regulators, following the recent cases of extreme volatility of certain stocks trading prices in other jurisdictions' markets (eg. GameStop in the US stock market), which have linked to a significant accumulation of net short positions and concerted action by some retail investors, based on information shared on social media.

Consob is committed to work to protect investors and to maintain fair, orderly, and efficient markets and, therefore, deems that the potential cross-border implications and the specific elements of novelty stemming from the said episodes have to be further analysed and investigated, amid concerns about their possible recurrence and spread to the European markets, even in the presence of an harmonisation discipline of short-selling and the common implementation of trading halts in the microstructure organisation of the secondary markets, which might help curbing macroscopic effects.

The GameStop case brought to the light the issue of the reliability of the social networks and online platforms as sources of information and the many connections with the prominent Consob's tasks above recalled.

More specifically, the potential classification of some information spread by social media as investment recommendations could raise issues in relation to the enforcement of possible violations of the rules set to tackle market abuses in Europe (the so called "Market Abuse Regulation"), with regards to modalities of fair presentation of these recommendations and the indication of potential conflicts of interest. Retail investors should be aware of the risk of taking trading decisions based on this kind of information, if not adequately presented.

The phenomenon is to be regarded also in connection with the flowering of trading platforms operating as systems for gathering multiple client's orders with low minimum entering amounts required by investors (sometimes also allowing for leveraged investment) and no or reduced fees, mainly targeting clients with limited experience on capital markets.

In addition, such new forms of "social-herding investing" also often entails (like any other type of trading services on the web) the transmission to the customers (via e-mail, text messages and social media) of "trading signals" (non-personalised) offered by third parties that grant access to the data on their trading operations allowing other traders to copy them on their own trading accounts.
The described operating models have the potential to complement and emphasize any distortive effects of potential market manipulations carried out through the dissemination of information on social media and forums.

According to Consob's preliminary analysis, it appears that the main firms operating in Italy and offering services which trace the outlined business model (i.e. lower or no fees for retail investors;

complementary use of social media, trading signals, etc.) are generally authorised in few Member States and provide services across EU under the MiFID II passporting regime.

Besides, non-authorised online trading platforms are constantly growing in number and this is of huge concern to supervisors. In most cases, this abusive provision of investment services is offered through web platforms, which easily permit customers to open a trading account and to issue purchase and/or sale orders relating to financial instruments (usually contracts for difference having as underlying currencies, stock indices, commodities and, increasingly, crypto-currencies). Another typical feature of these illegal activities is to make use of marketing tools like e-mail, chat, social networks and telephone solicitations (so-called cold calling).

Consob is committed to advance supervisory coordination and convergence in the different international bodies since the cross-border nature of recent cases clearly requires a concerted response. Consob will thus pay specific attention when contributing to the forthcoming review of MIFID/MIFIR and MAR frameworks. with a view to assess the current regimes and their effectiveness for retail investor protection, in connection with the cases above recalled and any related technological progress.

To name a few, the compatibility between the so called "payment for order flow" - which is the compensation that financial intermediaries receive for routing trades for trade execution - and the EU discipline of best execution/inducements needs to be assessed, in particular whether PFOF might be enhancing the quality of the service provided to customers.

At the same time, financial education might represent a useful complement to investor protection through a greater awareness of the risks stemming from investment decisions based on information provided through social media.

Regulators need to be always ready and proactive to face new challenges and threats for investors, particularly retail ones. Financial markets are grounded on risk and uncertainty and, today more than ever, connected with digitalisation and social media tools, which contribute to speed up and interweave market dynamics. As a result, some developments are neither easily predictable nor manageable at once.

Consob believes, and wants to restate through this statement, that public authorities should always look at their ultimate mission, which is to restore and maintain confidence in financial markets.

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