In the body of the text, the amendments introduced by Resolution no. 22430 of 28 July 2022 are highlighted in bold.

Regulation establishing the provisions for implementation of Legislative Decree no. 58 of February 24, 1998, on intermediaries

Adopted by CONSOB with Resolution no. 20307 of February 15, 2018 and subsequently amended by Resolutions no. 21466 of 29 July 2020, no. 21755 of 10 March 2021 and no. 22430 of 28 July 2022[1]

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1. The Resolution and the annexed Regulation are published in Ordinary Supplement no. 7 of the Official Journal no. 41 of February 19, 2018, and in the fortnightly CONSOB's Bollettino no. 2.2 of February 2018. *Resolution no. 21466 of July 29, 2020 is published in OJ no.* 201 of 12.8.2020; it enters into force on March 31, 2021, except as provided for by Article 2, Paragraph 2 of the same resolution: "*The amended Article 180, Paragraph 3, Letter a), Point 1), of the regulation establishing the provisions for implementation of Legislative Decree no. 58 of February 24, 1998 on intermediaries shall enter into force on the day following the publication of this Resolution in the Official Journal of the Italian Republic.*" Resolution no. 21755 of 10 March 2021 is published in the OJ no. 71 of 23.3.2021; it enters into force on 31.3.2021. Resolution no. 22430 of 28 July 2022 is published in the OJ no. 182 of 5.8.2022; it enters into force on 16.8.2022, except as indicated in the final and transitional provisions of Article 3 of the same Resolution.

BOOK I
REGULATORY SOURCES AND DEFINITIONS

Article 1
(*Regulatory sources*)

1. This Regulation is adopted pursuant to Articles 6, Paragraphs 2, 2-*bis*, 2-*quater* and 2-*quinquies*; 18-*bis*, Paragraph 2; 18-*ter*, Paragraph 3-*bis*; 19, Paragraphs 3, 3-*ter* and 4-*ter*; 23, Paragraph 4-*bis*; 25-*bis*, Paragraph 2; 25-*ter*, Paragraph 2; 26, Paragraphs 4 and 8; 27, Paragraphs 3 and 4; 28, Paragraph 4; 30, Paragraph 5; 31, Paragraphs 4, 6 and 6-*bis*; 32, Paragraph 2; 33, Paragraph 2, Letter *f*); 35-*decies,* Paragraph 1, Letter *d*); 41-*bis*, Paragraph 6; 41-*ter*, Paragraph 4; 117-*ter* and 201, Paragraphs 8 and 12, of Legislative Decree no. 58 of February 24, 1998.

2. Without prejudice to the provisions issued by the Bank of Italy in implementation of Legislative Decree no. 385 of September 1, 1993, Legislative Decree no. 58 of February 24, 1998, or any other legal provisions, applicable to the intermediaries and managers referred to in this Regulation.

Article 2
(*Definitions*)

1. In this Regulation, the following are understood as indicated:

   a) "Consolidated Law on Finance": Legislative Decree no. 58 of February 24, 1998;

   b) "Regulation (EU) 2017/565": the delegated Regulation (EU) 2017/565 of April 25, 2016, supplementing Directive 2014/65/EC of the European Parliament and of the Council concerning the organisational requirements and operating conditions of the activities of investment firms and the definitions of certain terms of said Directive;

   c) Consolidated Banking Law: Legislative Decree no. 385 of 1 September 1, 1993;

   d) "group": all of the parties together, determined pursuant to Article 11, Paragraph 1 of the Consolidated Law on Finance;

   e) "Investment services and activities": the services and activities referred to in Article 1, Paragraph 5 of the Consolidated Law on Finance and referred to in Section A of Annex I to the same Consolidated Law;

   f) "ancillary services": the services referred to in Article 1, Paragraph 6 of the Consolidated Law on Finance and referred to in Section B of Annex I to the same Consolidated Law;

   g) "durable medium": support defined by Article 1, Paragraph 6-*octiesdecies*, of the Consolidated Law on Finance, the use of which is governed by Article 3 of Regulation (EU) 2017/565;

   h) "venue" or "branch": an office, different from the registered office of the authorised intermediary, consisting of a permanent organisation of equipment and people, open to the public, with technical and decision-making autonomy, which provides continuously

investment services or activities;

h-bis) **«Regulation (EU) 2019/2088»: Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019[2];**

h-ter) **«sustainability risk»: the sustainability risk in accordance with Article 2, point 22 of Regulation (EU) 2019/2088[3];**

h-quater) **«sustainability factors»: the sustainability factors in accordance with Article 2, point 24 of Regulation (EU) 2019/2088[4].**

2. Where not otherwise specified, for the purposes of this Regulation, the definitions shall apply that can be found in the Consolidated Law on Finance, the Consolidated Banking Law and in the related implementing provisions in Regulation (EU) 2017/565 and in Commission Delegated Regulation (EU) 2017/592 of December 1, 2016, supplementing Directive 2014/65/EC of the European Parliament and of the Council as regards the technical standards of regulation for the criteria for determining when an activity must be regarded as ancillary to the principal activity.

BOOK II
ITALIAN INVESTMENT FIRM AUTHORISATION AND ENTRY INTO ITALY OF EU INVESTMENT FIRMS AND THIRD COUNTRY FIRMS OTHER THAN BANKS

PART I
PRELIMINARY PROVISIONS

Article 3
(*Definitions*)

1. In this Book, the following are understood as indicated:

a) "register": the register referred to in Article 20, Paragraph 1 of the Consolidated Law on Finance;

b) "special section": the section of the register provided for in Article 60, Paragraph 4 of Legislative Decree no. 415 of July 23, 1996;

c) "section of third country firms other than banks": the section of the register in which third country firms other than banks are registered;

d) "list": the list of EU investment firms annexed to the register established by Article 20,

2 Letter inserted with Resolution no. 22430 of 28.7.2022.

3 Letter inserted with Resolution no. 22430 of 28.7.2022.

4 Letter inserted with Resolution no. 22430 of 28.7.2022.

Paragraph 1 of the Consolidated Law on Finance;

e) "branch": a venue which that forms a part, with no legal status, of an investment firm and that provides investment services and/or activities and ancillary services for the firm;

f) "EU country": a Member State of the European Union;

g) "non-EU country": country not belonging to the European Union;

h) "EU country of origin": the Member State as defined in Article 1, Paragraph 6-*duodecies*, Letter *a*) of the Consolidated Law on Finance;

i) "country of origin": the non-EU country in which a third country firm other than a bank has its registered office;

l) "services eligible for mutual recognition": the services and activities as defined by Article 1, Paragraph 1, Letter *s*) of the Consolidated Law on Finance;

m) "representative office": office that an Italian investment firm ("SIM" in the Italian acronym) uses exclusively for market research and analysis or similar activities and in any case not falling under the category of the provision of investment services and activities.

PART II
REGISTER

Article 4
(*Register*)

1. The following are registered on the register referred to in Article 20 of the Consolidated Law on Finance:

a) Italian investment firms;

b) in the section of third country firms other than banks, the third country firms other than banks;

c) in the special section, the companies referred to in Article 60, Paragraph 4, first sentence of Legislative Decree no. 415 of July 23, 1996.

2. The section of third country firms other than banks, referred to in Paragraph 1, Letter *b)* includes:

a) third country firms, other than banks, authorised by CONSOB to operate in Italy by means of establishing branches and under the freedom to provide services, **pursuant to Article 28, Paragraphs 1, 6 and 6-*bis* of the Consolidated Law on Finance**[5];

5 Letter thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "pursuant to Article 28, Paragraphs 1 and 6 of the Consolidated Law on Finance" with the words: "pursuant to Article 28, Paragraphs 1, 6 and 6-

b) third country firms, other than banks, authorised to establish branches in other EU countries, where they fulfil the conditions laid down in Article 47, Paragraph 3 of Regulation (EU) 600/2014.

3. A list is attached to the register on which are registered the investment firms authorised in other EU countries.

Article 5
(*Content of the register*)

1. For every Italian investment firm ("SIM") registered, the register includes the following information:

a) registration number;

b) company name;

b-bis) **Legal Entity Identifier (LEI)**[6]**;**

c) registered office;

d) the general management address, if different from the registered office;

e) details of the authorisation to perform investment services and activities, including indication of the authorised investment services and activities and any related operational limits;

f) details of the measures adopted pursuant to Articles 7-*sexies* and 56 of the Consolidated Law on Finance;

g) the countries in which the Italian investment firm operates with or without the establishment of branches, with specification of the investment services and activity concerned.

2. The section referred to in Article 4, Paragraph 2, Letter *a*), for each registered third country firm, other than banks, authorised by CONSOB to operate in Italy through the establishment of branches, includes the following information:

a) registration number;

b) company name;

b-bis) **Legal Entity Identifier (LEI)**[7]**;**

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bis of the Consolidated Law on Finance."

6 Letter inserted with Resolution no. 22430 of 28.7.2022.

7 Letter inserted with Resolution no. 22430 of 28.7.2022.

c) registered office;

d) the general management address, if different from the registered office;

e) details of the authorisation to perform in Italy the investment services and activities referred to in Article 28, Paragraph 1 of the Consolidated Law on Finance, including indication of the authorised investment services and activities and any related operational limits;

f) the branches located in Italy;

f) details of the measures adopted pursuant to Articles 7-*sexies* and 56 of the Consolidated Law on Finance;

h) EU countries in which the third country firm other than banks may provide, where the conditions laid down in Article 47, Paragraph 3 of Regulation (EU) 600/2014 apply, investment services and activities covered by authorisation under the freedom to provide services with regard to qualified counterparties and professional clients by law, as identified pursuant to Article 6, Paragraph 2-*quinquies*, Letter *a*) and Paragraph 2-*sexies*, Letter *a*) of the Consolidated Law on Finance;

i) the type of client base for which the third country firm other than banks is authorised to operate in Italy.

3. The section referred to in Article 4, Paragraph 2, Letter *a*), for each registered third country firm, other than banks, authorised by CONSOB to operate in Italy under the freedom to provide services, includes the following information:

a) registration number;

b) company name;

b-bis) **Legal Entity Identifier (LEI)**[8]**;**

c) registered office;

d) the general management address, if different from the registered office;

e) details of the measures of authorisation to perform in Italy the investment services and activities referred to **in Article 28, Paragraphs 6 and 6-*bis* of the Consolidated Law on Finance**, including indication of the authorised investment services and activities and any related operational limits[9];

8 Letter inserted with Resolution no. 22430 of 28.7.2022.

9 Letter thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "in Article 28, Paragraph 6 of the Consolidated Law on Finance" with the words: "in Article 28, Paragraphs 6 and 6-*bis* of the Consolidated Law on Finance."

f) details of the measures adopted pursuant to Articles 7-*sexies* and 56 of the Consolidated Law on Finance;

g) the type of client base for which the third country firm other than banks is authorised to operate in Italy.

4. The section referred to in Article 4, Paragraph 2, Letter *a*), for each registered third country firm, includes the following information:

a) registration number;

b) company name;

b-bis) **Legal Entity Identifier (LEI)**[10]**;**

c) registered office;

d) the services and activities eligible for mutual recognition that the firm can perform in Italy;

e) the EU country in which the branch is established;

f) the type of client base for which the third country firm other than banks is authorised to operate in Italy.

5. The special section includes, for each of the companies referred to in Article 60, Paragraph 4 of Legislative Decree no. 415 of July 23, 1996, the following information:

a) registration number;

b) company name;

b-bis) **Legal Entity Identifier (LEI)**[11]**;**

c) registered office;

d) the general management address, if different from the registered office;

e) details of the authorisation;

f) details of the measures adopted pursuant to Articles 7-*sexies* and 56 of the Consolidated Law on Finance.

6. The annexed list referred to in Article 4, Paragraph 3 includes, for each EU investment firm, the following information:

10 Letter inserted with Resolution no. 22430 of 28.7.2022.

11 Letter inserted with Resolution no. 22430 of 28.7.2022.

a) registration number;

b) company name;

c) registered office;

d) the services and activities eligible for mutual recognition that the firm can perform in Italy;

e) details of the authorisation to perform in Italy the investment services and activities not eligible for mutual recognition referred to in Article 27, Paragraph 4 of the Consolidated Law on Finance, including indication of the authorised investment services and activities;

f) any existing branch in Italy identified pursuant to Article 4, Paragraph 1, Number 30 of Directive 2014/65/EU, **as well as the Legal Entity Identifier of the EU investment firm**[12].

Article 6
(*Register disclosure*)

1. The register is published in the "Registers and Lists" area of the Bollettino, instituted in electronic format in a special section of the CONSOB website.

PART III
PROCEDURE TO AUTHORISE THE PERFORMANCE OF INVESTMENT SERVICES AND ACTIVITIES

Article 7
(*Applications for authorisation and authorisation extension*)

1. Applications for authorisation to perform the investment services and activities in compliance with current stamp duty regulations are submitted to CONSOB together with the documentation referred to in Commission Delegated Regulation (EU) 2017/1943 of July 14, 2016, including indication of the Legal Entity Identifier of the applicant firm. Commission Delegated Regulation (EU) 2017/1943 of July 14, 2016, and Commission Implementing Regulation (EU) 2017/1945 of June 19, 2017, shall apply[13].

2. The documents referred to in Article 4 of the Commission Delegated Regulation (EU) 2017/1943 of July 14, 2016, are also presented for the components of the Board of Statutory Auditors, including the alternate auditors.

3-*bis*. In presenting the information and data of the programme of operations and organizational structure pursuant to Articles 5 and 6 of Commission Delegated

12 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "of Directive 2014/65/EU" added the words: "as well as the Legal Entity Identifier of the EU investment firm."
13 Paragraph thus replaced with Resolution no. 22430 of 28.7.2022.

Regulation (EU) 2017/1943 of July 14, 2016, applicants provide a coherent and complete description of the envisaged activities, the internal organization, the development lines, the pursued objectives, the distribution and commercial strategies the firm intends to pursue, as well as any other relevant element for the purposes of the evaluation of the initiative. In particular, applicant firms indicate the assumptions at the basis of the forecasts made, also including any adverse scenarios with respect to the presented basic assumptions, with a description of the related economic, capital and prudential impacts, and resulting necessary capital-strengthening actions, with an estimate of the related costs[14]**.**

3. In the event that CONSOB already possesses the documents indicated under Paragraphs 1 and 2, the applicant firm is exempted from the obligation to produce it. The application includes indication of this fact and the date on which the documents were sent to CONSOB.

4. Within ten working days of receiving the application for authorisation, CONSOB shall check that the application is complete and notify the firm of any missing documents, which must be forwarded to CONSOB within ninety days of receiving notification, under penalty of invalidation of the application[15].

5. The application shall be valid from the date of its presentation, or, in the event of incomplete documentation, from the date of presentation of the missing documents[16]**.**

5-*bis*. The application for extension of the authorisation to perform the investment services and activities in compliance with current stamp duty regulations are submitted to CONSOB together with the following documents:

a) **Description of the organization of the applicant firm, in accordance with the provisions of Article 6 of Commission Delegated Regulation (EU) 2017/1943 of July 14, 2016, including in particular a programme of initial operations for the following three years, and resulting modifications to the organizational structure and internal control systems;**

b) **Description of the expected financial situation as a result of the performance of the investment services and activities for which authorization is sought, in accordance with the provisions of Article 5 of Commission Delegated Regulation (EU) 2017/1943 of July 14, 2016;**

c) **Copy of the minutes of the meeting of the administration body or, in the event of a sole administrator, of the control body of the applicant firm, relative to the verification of the requirements of the corporate officers referred to in Article 13 of the Consolidated Law on Finance;**

14 Paragraph inserted with Resolution no. 22430 of 28.7.2022.

15 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which deleted the words: "or for its extension."

16 Paragraph inserted with Resolution no. 22430 of 28.7.2022.

d) **Attestation of the amount and composition of own funds at the time of submission of the application, where the authorization extension implies a capital increase, as provided for by Article 19, paragraph 1, letter *d)* of the Consolidated Law on Finance;**

e) **Where modifications to the deed of incorporation and by-laws are required, copy of the minutes of the shareholders' meeting and of the attestations of its entry on the companies' register**[17]**.**

5-ter. In the cases referred to in Paragraph 5-*bis*, Commission Implementing Regulation (EU) 2017/1945 of June 19, 2017, as well as Paragraphs 3-bis, 4 and 5, shall apply[18]**.**

Article 8

(*Verification of the requirements of the corporate officers of the applicant firm*)

1. The responsibility of verification of the possession of the requisites of the corporate officers referred to in Article 13 of the Consolidated Law on Finance, including alternate auditors, is submitted to the Board of Directors or, in the case of a sole administrator, to the Board of Statutory Auditors of the firm. The minutes relating to the Resolution that leads to the verification of requirements record the assumptions that form the basis of the assessment undertaken. Checks shall be carried out separately for each of the interested parties and with their respective abstentions resulting from the report of the competent supervisory body. The documentation acquired for this purpose is retained at the firm and stored for a period of five years from the date of the resolution for which it was used.

2. The minutes referred to in Paragraph 1 form the basis for the specific activities carried out by each party and the relative duration assessed for the purposes of ensuring professional requirements.

3. The minutes referred to in Paragraph 1 form the basis, for each interested party, of precise indication of the documents taken into consideration for certifying the existence of the requirements of professional conduct. The minutes include mention of any proceedings in progress against corporate officers for offences that could affect the possession of the requirement in question.

4. For the purposes of verifying possession of requirements, the parties concerned shall submit to the Board of Directors documentation to prove possession of the requirements. This is without prejudice to the right of CONSOB to request the submission of proof of possession of requirements.

5. The officers who, at any time, find themselves in situations leading to the termination or suspension from office or who are under investigation for crimes that could affect the possession of the requirement of professional conduct shall immediately notify the Board of Directors of these circumstances.

17 Paragraph inserted with Resolution no. 22430 of 28.7.2022.

18 Paragraph inserted with Resolution no. 22430 of 28.7.2022.

Article 9
(*Process of applications for authorisation and authorisation extension*)

1. Having received the application, CONSOB shall verify compliance with the conditions referred to in Articles 19, Paragraphs 1 and 2, and 59, Paragraph 1 of the Consolidated Law on Finance for the issue of authorisation and, after consultation with the Bank of Italy, shall act on the application within the deadline of one hundred and twenty days.
In the cases referred to in Article 84, Paragraphs 1 and 2 of Directive 2014/65/EU, resolutions shall be subject to prior consultation with the competent authorities of the EU countries concerned.

2. CONSOB shall be notified of any changes concerning the corporate officers and holders of qualifying holding in the firm, as well as any changes to elements of the application process significant for the purposes of the decision, that occur in the course of the process, before they come into effect or, where this is not possible, within ten business days of occurrence of the event.

3. CONSOB may request additional information:

a) from the applicant firm;

b) from those who perform administrative or control functions, from general managers and from shareholders of the applicant firm;

c) from any other party, including foreign parties.

4. CONSOB shall inform the applicant firm of any decision to accept or not the application within the deadline referred to in Paragraph 1.

Article 10
(*Forfeiture of authorisation*)

1. Italian investment firms that intend to waiver authorisation to perform one or more investment services or activities shall submit due application for forfeiture to CONSOB. After consultation with the Bank of Italy, CONSOB shall act on the application within the deadline of one hundred and twenty days.

2. Article 9, Paragraphs 3 and 4 shall apply.

3. Investment firms shall initiate the performance of every single investment service or activity authorised within the deadline of one year from the issue of the relative authorisation, under penalty of forfeiture of said authorisation. The forfeiture shall be pronounced by CONSOB, after consultation with the Bank of Italy.

4. The deadline referred to in Paragraph 3 shall not run or shall be suspended in the event that supervisory investigations are in progress or have been launched with regard to the Italian investment firm . In this case, the full deadline shall run from the moment that the investigations have been completed.

Article 11
(*Suspension and interruption of application process deadlines*)

1. The deadlines for the completion of the application processes referred to in Articles 9 and 10 shall be suspended:

a) in the case in which the applicant firm has made use of declarations in lieu in its preparation of the documents to be attached to the application, when it proves necessary to check the truthfulness of these statements, up to the date on which CONSOB receives the documentation from the party or from the competent administrative authority;

b) in the cases referred to in Article 84, Paragraphs 1 and 2, of Directive 2014/65/EU, for the time necessary to experiment the prior consultation provided for therein;

c) in the cases referred to in Article 9, Paragraph 3, from the date of sending the request for information until the date that CONSOB receives the elements requested;

d) in the proceeding of extension of authorisations, where supervisory investigations are under way with regard to the Italian investment firm of significance for the purposes of the investigation, for the time necessary to complete the investigations.

2. In the case referred to in Paragraph 1, CONSOB shall notify those concerned of the start and end of the suspension of the application process.

3. In the case referred to in Paragraph 1, Letter *c*), the proceeding shall expire if the applicant firm fails to send the information requested within the deadline established to this end by CONSOB.

4. In the case referred to in Article 9, Paragraph 2, the deadlines for completing the investigation are suspended from the date of receiving notification concerning the changes that have been made and restart from the date of receipt by CONSOB of the relative documents. Paragraph 2 applies.

Article 12
(*Revocation of authorisation*)

1. After consultation with the Bank of Italy, CONSOB revokes an Italian investment firm's authorisation to perform investment services and activities when:

a) the performance of investment services and activities is interrupted for more than six months;

b) the authorisation was obtained by presenting false statements or by any other unlawful means;

c) the firm fails to meet the conditions under which authorisation was granted.

2. The deadline referred to in Paragraph 1, Letter *a*) shall not run or shall be suspended in the event that supervisory investigations are in progress or have been launched with regard to the Italian investment firm.. In this case, the full deadline shall run from the moment that the investigations have been completed.

3. CONSOB may postpone the pronunciation of revocation in the case referred to in Paragraph 1, Letter *a*) if the Italian investment firm fails to provide notice of the interruption of the performance of authorised investment services or activities established under Article 13 and should it be necessary for the protection of the interests referred to in Article 5, Paragraph 1 of the Consolidated Law on Finance.

Article 13
(*Notices on the performance of investment services and activities*)

1. The Italian investment firms shall notify CONSOB and the Bank of Italy immediately of the start dates, dates of possible interruptions and restarting of the performance of every authorised investment service or activity.

PART IV
CROSS-BORDER INVESTMENT FIRM OPERATIONS

Article 14
(*Establishment of branches or associated dealers in other EU countries*)

1. The Italian investment firm that intends to provide investment services and activities, with or without ancillary services, in another EU country, by means of the establishment of branches or associated dealers established in the host EU country, shall transmit to CONSOB, in accordance with the procedures set out **in Articles 12 and 13 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**, advance notice containing the information referred to in Article 6 of the Commission Delegated Regulation (EU) 2017/1018 of June 29, 2016[19].

2. CONSOB shall verify the completeness and correctness of the information provided in compliance with the provisions **of Article 14 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**[20] .

3. After consultation with the Bank of Italy, CONSOB shall notify the competent authority of the host EU country of the information received in the notice referred to in Paragraph 1 in compliance with the provisions of **Articles 15 and 16 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**[21].

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19 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "in Articles 13 and 14 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "in Articles 12 and 13 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

20 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "of Article 15 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "of Article 14 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

21 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Articles 16 and 17 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Articles 15 and 16 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

4. The Italian investment firm concerned is informed of the notification referred to in Paragraph 3, according to the provisions of **Articles 15, Paragraph 2, and 16, Paragraph 2 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**. This information is also sent to the Bank of Italy[22] .

5. In the event that CONSOB, after consultation with the Bank of Italy, intends to reject the notification to the competent authority of the host EU country for reasons relating to the suitability of the organisational structure or to the financial or economic position of the Italian investment firm, it shall inform the Italian investment firm of the reasons for its refusal within sixty business days of receiving the notice referred to in Paragraph 1, complete with all the necessary parts. This deadline may be suspended for a period of no more than thirty business days.

6. The Italian investment firm can establish the branch or the associated dealer and start operations after receiving due notification from the competent authority of the host EU country or, in the absence of this notification, when two months have passed from the date of delivery to the Italian investment firm of the notification from CONSOB provided for by Paragraph 4.

7. The Italian investment firm shall notify CONSOB and Bank of Italy promptly of the actual start and end of activity of the branch or associated dealer.

Article 15

(*Changes to information relating to the branch or associated dealer*)

1. The Italian investment firm shall notify CONSOB, according to the methods set out in **Articles 17 and 18 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**, of any changes in the information referred to in Article 14, Paragraph 1, at least one month before implementing the change, in compliance with the provisions of Article 7 of the Commission Delegated Regulation (EU) 2017/1018 of June, 29, 2016[23].

2. CONSOB shall notify the competent authority of the host EU country of the information received in the notice referred to in Paragraph 1 in compliance with the provisions of **Articles 19 and 20 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**[24].

22 Paragraph thus amended by Resolution no. 22430 of 28.7.2022, which replaced the words: "Articles 16, Paragraph 2, and 17, Paragraph 2 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Articles 15, Paragraph 2, and 16, Paragraph 2 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

23 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Articles 18 and 19 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Articles 17 and 18 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

24 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Articles 20 and 21 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Articles 19 and 20 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

Article 16

(*Provision of investment services and activities in other EU countries under the freedom to provide services*)

1. The Italian investment firm that intends to provide investment services and activities, with or without ancillary services, in another EU country, under the freedom to provide services, including by means of the use of associated dealers established in Italy, shall transmit to CONSOB, in accordance with the procedures set out **in Article 3 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**, advance notice containing the information referred to in Article 3 of the Commission Delegated Regulation (EU) 2017/1018 of June 29, 2016[25].

2. CONSOB shall verify the completeness and correctness of the information provided in compliance with the provisions of **Article 4 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**[26].

3. After consultation with the Bank of Italy, CONSOB shall notify the competent authority of the host EU country of the information received in the notice referred to in Paragraph 1 in compliance with the provisions of **Article 5 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**[27].

4. The Italian investment firm concerned is informed of the notification referred to in Paragraph 3, according to the provisions of **Article 5, Paragraph 2 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**. This information is also sent to the Bank of Italy[28].

5. The Italian investment firm can begin operations after receiving from CONSOB the notification referred to in Paragraph 4.

Article 17

(*Changes to information relating to investment services and activities*)

1. The Italian investment firm shall notify CONSOB of any changes to the information referred to in Article 16, at least one month before implementing the change, in accordance with the provisions of Article 4 of the Commission Delegated Regulation (EU) 2017/1018 of June 29, 2016, and in

25 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Article 4 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "in Article 3 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

26 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Article 5 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Article 4 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

27 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Article 6 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Article 5 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

28 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Article 6, Paragraph 2 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Article 5, Paragraph 2 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

accordance with the methods established by **Article 6 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**[29].

2. CONSOB shall notify the competent authority of the host EU country of the information received in the notice referred to in Paragraph 1 in compliance with the provisions of **Article 7 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017**[30].

Article 18
(*Establishment of branches in non-EU countries*)

1. The Italian investment firm that intends to establish branches in non-EU countries submits to CONSOB an application for authorisation containing the following information:

a) the foreign country in which the Italian investment firm plans to establish a branch;

b) the position of the initiative within the overall strategy of expansion of the Italian investment firm abroad;

c) the activity that the Italian investment firm intends to perform in the host country, the organisational structure that the branch will adopt (organisational chart, human resources, information systems), and the impact of the initiative on the organisational structure of the Italian investment firm;

d) the address of the branch in the foreign state, or of the registered office (if the branch is divided into multiple venues), where documents may be requested;

e) the names and an informative curriculum of those responsible for managing the branch;

f) the amount of the endowment fund of the branch, where required.

2. Within ten business days of receiving the application for authorisation, CONSOB shall check that the application is complete and notify the firm of any missing documents, which must be forwarded to CONSOB within thirty days of receiving notification, under penalty of invalidation of the application.

3. The application shall be valid from the date of its presentation, or, in the event of incomplete documentation, from the date of presentation of the missing documents.

4. After consultation with the Bank of Italy, CONSOB shall act on the application for authorisation within ninety days of its receipt.

5. CONSOB shall be informed immediately of any changes to the elements contained in the

29 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Article 7 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Article 6 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

30 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Article 8 of the Implementing Regulation issued pursuant to Articles 34, Paragraph 9, and 35, Paragraph 12 of Directive 2014/65/EU" with the words: "Article 7 of the Commission Implementing Regulation (EU) 2017/2382 of December 14, 2017."

application for authorisation relevant to the application process.

6. CONSOB may request additional information:

a) from the applicant firm;

b) from those who perform administrative or control functions, from general managers and from shareholders of the applicant firm;

c) from any other party, including foreign parties.

7. CONSOB may ask the competent authority of the host country for an opinion on the initiative.

8. CONSOB shall grant authorisation subject to fulfilment of the following conditions:

a) existence in the host EU country of suitable legislation and system of supervision;

b) existence of special cooperation agreements between CONSOB and the Bank of Italy (Bank of Italy) and the competent authorities of the host country intended, inter alia, to facilitate access to information by CONSOB and Bank of Italy, including via locally performed checks;

c) the possibility of easy access by the parent company to branch information;

d) suitability of the organisational structure and financial and economic position of the Italian investment firm. Organisational evaluation shall take account the major difficulties that the Italian investment firms may encounter in ensuring the effectiveness of internal controls on a foreign branch.

9. CONSOB shall notify the Italian investment firm concerned of the reasons for refusal to grant authorisation.

10. The Italian investment firm shall notify CONSOB promptly of the actual start and end of activity of the branch.

11. CONSOB shall inform Bank of Italy of the authorisations granted.

12. The Italian investment firm authorised pursuant to Paragraph 8 shall operate in compliance with the regulations in force in the host country.

Article 19
(*Suspension and interruption of application process deadlines*)

1. The deadline for concluding the proceeding referred to in Article 18, Paragraph 4 shall be suspended:

a) in the cases referred to in Article 18, Paragraph 6, from the date of sending the request for information until the date that CONSOB receives the elements requested;

b) in the cases referred to in Article 18, Paragraph 7, from the date of sending the request for

an opinion until the date that CONSOB receives the opinion;

d) in the case that supervisory investigations are under way with regard to the Italian investment firm of significance for the purposes of the investigation, for the time necessary to complete the investigations.

2. In the case referred to in Article 18, Paragraph 5, the deadline for completing the proceeding referred to in Paragraph 4 of the same Article is suspended from the date of receiving notification concerning the changes that have been made and restarts from the date of receipt by CONSOB of the relative documents.

3. In the case referred to in Paragraphs 1 and 2, CONSOB shall notify those concerned of the start and end of the suspension or interruption of the application process.

4. In the case referred to in Article 18, Paragraph 6, Letter *a*), the proceeding shall expire if the applicant firm fails to send the information requested within the deadline established to this end by CONSOB.

Article 20
(*Changes to the information relating to branches established in non-EU countries*)

1. The Italian investment firm shall notify CONSOB in advance of any change it intends to make to the information referred to in Article 18, Paragraph 1 Letters *c*), *d*) and *e*).

2. The Italian investment firm can implement the notified changes after sixty days from delivery of the notification to CONSOB.

2-*bis*. The Italian investment firm that intends to forfeit an authorisation to perform, through branches, one or more investment services or activities in non-EU countries, files an application for forfeiture with CONSOB, which, after consulting the Bank of Italy, resolves on the application within ninety working days at the most of receiving the same. Articles 18, paragraph 6, 19, paragraph 1, letter *a)* and 3, shall apply[31].

Article 21
(*Provision of investment services and activities in non-EU countries under the freedom to provide services*)

1. The Italian investment firm that intends to establish branches in non-EU countries under the freedom to provide services shall submit an authorisation application to CONSOB including the following information:

a) the country in which the Italian investment firm intends to practise its activities;

b) a programme of activity indicating the services that the Italian investment firm intends to provide in the host country;

31 Paragraph inserted with Resolution no. 22430 of 28.7.2022

c) the methods with which the Italian investment firm intends to operate.

2. Within ten working days of receiving the application for authorisation, CONSOB shall check that the application is complete and notify the firm of any missing documents, which must be forwarded to CONSOB within thirty days of receiving notification, under penalty of invalidation of the application.

3. The application shall be valid from the date of its presentation, or, in the event of incomplete documentation, from the date of presentation of the missing documents.

4. CONSOB shall act on the authorisation application submitted by the applicant Italian investment firm, after consultation with the Bank of Italy

5. CONSOB shall be informed immediately of any changes to the elements contained in the application for authorisation relevant to the application process.

6. CONSOB may request additional information:

a) from the applicant firm;

b) from those who perform administrative or control functions, from general managers and from shareholders of the applicant firm;

c) from any other party, including foreign parties.

7. CONSOB may ask the competent authority of the host country for an opinion on the initiative.

8. CONSOB shall grant authorisation subject to fulfilment of the following conditions:

a) existence in the host country of suitable legislation and system of supervision;

b) existence of special cooperation agreements between CONSOB and the Bank of Italy and the competent authorities of the foreign country;

c) suitability of the organisational structure and financial and economic position of the Italian investment firm.

9. CONSOB shall notify the Italian investment firm concerned of the reasons for refusal to grant authorisation.

10. The Italian investment firm authorised pursuant to Paragraph 8 shall operate in compliance with the regulations in force in the host country.

10-*bis*. The Italian investment firm that intends to forfeit an authorisation to perform, under the freedom to provide services, one or more investment services or activities in non-EU countries, files an application for forfeiture with CONSOB, which, after consulting the Bank of Italy, resolves on the application within sixty working days at the most of receiving the same. Articles 21, paragraph 6, 22, paragraph 1, letter *a)* and

3, shall apply[32].

Article 22
(*Suspension and interruption of application process deadlines*)

1. The deadline for concluding the proceeding referred to in Article 21, Paragraph 4 shall be suspended:

a) in the cases referred to in Article 21, Paragraph 6, from the date of sending the request for information until the date that CONSOB receives the elements requested;

b) in the cases referred to in Article 21, Paragraph 7, from the date of sending the request for an opinion until the date that CONSOB receives the opinion;

d) in the case that supervisory investigations are under way with regard to the Italian investment firm of significance for the purposes of the investigation, for the time necessary to complete the investigations.

2. In the case referred to in Article 21, Paragraph 5, the deadline for completing the proceeding referred to in Paragraph 4 of the same Article is suspended from the date of receiving notification concerning the changes that have been made and restarts from the date of receipt by CONSOB of the relative documents.

3. In the case referred to in Paragraphs 1 and 2, CONSOB shall notify those concerned of the start and end of the suspension or interruption of the application process.

4. In the case referred to in Article 21, Paragraph 6, Letter *a*), the proceeding shall expire if the applicant firm fails to send the information requested within the deadline established to this end by CONSOB.

Article 23
(*Performance in other EU countries of activities not eligible for mutual recognition*)

1. Investment firms that intend to perform activities not eligible for mutual recognition in other EU countries, with or without the establishment of branches, shall submit an authorisation application to CONSOB.

2. In the event that the Italian investment firm intends to perform activities not eligible for mutual recognition with the establishment of branches, Articles 18, 19 and 20 shall apply.

3. In the event that the Italian investment firm intends to perform activities not eligible for mutual recognition without the establishment of branches, Articles 21 and 22 shall apply.

Article 24
(*Opening of representative offices*)

1. Investment firms can open representative offices in other EU countries and in non-EU

32 Paragraph inserted with Resolution no. 22430 of 28.7.2022.

countries.

2. The opening of representative offices abroad is subject to the procedures established by the competent authorities of the host country.

3. The Italian investment firm shall notify CONSOB promptly of the start of activity at the representative office, indicating the foreign country of establishment, the office address and the activity undertaken by this office.

4. The Italian investment firm shall notify CONSOB promptly of the end of activity of the branch.

PART V

AUTHORISATION PROCEDURE FOR THIRD COUNTRY FIRMS OTHER THAN BANKS

Article 25
(*Application for authorisation*)

1. Firms of third countries other than banks that intend to operate in Italy **pursuant to Article 28, Paragraphs 1, 6 and 6-*bis* of the Consolidated Law on Finance**, shall submit to CONSOB an application for authorisation drafted according to that provided for by Annex 1[33].

2. In the event that a retail or professional client, upon request pursuant to Article 6, Paragraph 2-*quinquies*, Letter *b)* and Paragraph 2-*sexies*, Letter *b)* of the Consolidated Law on Finance, established or located in Italy, launches on its own exclusive initiative the provision of an investment service or the practice of an investment activity on behalf of a third country firm other than a bank, Article 28, Paragraph 3, of the Consolidated Law on Finance shall not apply to the provision of the service or practice of the investment activity towards the client in question, or to any relation specifically associated with the provision of such service or practice of such activity. Except for intra-group relations, the case whereby a third country firm other than a bank solicits clients or potential clients in Italy, including through an entity that acts on its behalf or has close ties with it, or through another person that acts on behalf of such entity, shall not be considered as a service provided on the exclusive initiative of a client. The initiative of the client does not give the third country firm other than a bank the right to market new categories of investment products or services to such client, if an authorised branch pursuant to Article 28, Paragraph 1 of the Consolidated Law on Finance is not established in Italy[34].

3. Article 7, Paragraphs 4 and 5 apply.

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33 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "pursuant to Article 28, Paragraphs 1 and 6 of the Consolidated Law on Finance" with the words: "pursuant to Article 28, Paragraphs 1, 6 and 6-*bis* of the Consolidated Law on Finance."

34 Paragraph thus replaced with Resolution no. 22430 of 28.7.2022.

Article 26
(*Application process*)

1. CONSOB shall verify compliance with the conditions **referred to in Article 28, Paragraphs 1, 2, 6 and 6-*bis* of the Consolidated Law on Finance** for the issue of authorisation and, after consultation with the Bank of Italy, shall act on the application within the deadline of one hundred and twenty days. Notification of the resolution shall be sent to the applicant firm and to the authority of the country of origin[35].

2. The terms of the process referred to in Paragraph 1 shall be suspended until the agreements provided for in Article 28, Paragraph 1, Letters *d*) and *e*) of the Consolidated Law on Finance, have been finalized.

3. CONSOB shall be notified of any changes concerning the parties that perform the administrative or control functions, shareholders controlling the applicant firm, the managers of the branch of this firm, as well as any other changes to significant process elements that occur during the application process, before they come into effect or, where this is not possible, within ten business days of occurrence of the event.

4. CONSOB may request additional information:

a) from the applicant firm;

b) from those who perform administrative or control functions, from general managers and from shareholders of the applicant firm;

c) from any other party, including foreign parties.

5. CONSOB shall inform the applicant firm of any decision to accept or not the application within the deadline referred to in Paragraph 1.

Article 27
(*Authorisation extension*)

1. Third party firms, other than banks, that intend to acquire authorisation to perform additional investment services or activities shall submit an application to CONSOB pursuant to Article 25.

2. Article 7, Paragraphs 4, 5 and 26 shall apply.

Article 28
(*Language of the documents*)

1. The application for authorisation referred to in Article 25 and the statements and news to be provided pursuant to Annex 1 and Article 26 must be produced in Italian or in the language generally used in the financial sector; this is without prejudice to that established by Presidential

35 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "referred to in Article 28, Paragraphs 1, 2 and 6 of the Consolidated Law on Finance" with the words: "referred to in Article 28, Paragraphs 1, 2, 6 and 6-*bis* of the Consolidated Law on Finance."

Decree no. 445 of December 28, 2000, documents originally drafted in a different language must be accompanied by an Italian translation.

Article 29
(*Applicable provisions*)

1. The provisions referred to in Articles 10, 11, 12 and 13 shall apply.

Article 30
(*Provision of services and activities in other EU countries by a third country firm, other than a bank, authorised through a branch*)

1. Third country firms other than banks authorised through a branch according to that established by Article 25 may, pursuant to Article 47, Paragraph 3 of Regulation (EU) no. 600/2014, in other EU countries without establishing new branches there, provide services and activities covered by the authorisation to eligible counterparties and professional clients by law, provided that the legal and supervisory framework of the third country is recognised as an effective equivalent by the European Commission pursuant to Article 47, Paragraph 1 of the same Regulation and provided that due prior notice has been sent to CONSOB.

2. Article 16 shall apply, insofar as compatible.

Article 31
(*Provision of services and activities in other EU countries by a third country firm, other than a bank, authorised through a branch in another EU country*)

1. Third country firms other than banks authorised in another EU country may provide services and activities covered by the authorisation to eligible counterparties and professional clients by law in Italy, without establishing a local branch, pursuant to Article 47, Paragraph 3 of Regulation (EU) no. 600/2014, provided that the legal and supervisory framework of the third country is recognised as an effective equivalent by the European Commission pursuant to Article 47, Paragraph 1 of the same Regulation and provided that CONSOB has been informed in advance by the authority of the EU country in which the branch is established.

2. Article 33 shall apply, insofar as compatible.

PART VI
EU INVESTMENT FIRM OPERATIONS IN THE ITALIAN REPUBLIC

Article 32
(*Establishment of branches or associated dealers in Italy*)

1. For the practice of investment services or activities eligible for mutual recognition, with or without ancillary services, EU investment firms can establish branches or associated dealers in Italy. CONSOB shall be notified of the establishment of the first branch by the competent authority of the EU country of origin, in accordance with the procedures indicated in the Commission Delegated Regulation (EU) of June 29, 2016, and the Implementing Regulation issued pursuant to Article 34,

Para. 9 and 35, Para. 12 of Directive 2014/65/EU.

2. Having received the notification referred to in Paragraph 1, should it have reason to believe that compliance with applicable regulations cannot be ensured, CONSOB may request changes to the operating procedures of the branches to be established in Italy.

3. The branch or associated dealer can start activity from the moment they receive due notice from CONSOB, or, in the event of silence, from the deadline of two months from the notice referred to in Paragraph 1. In the case referred to in Paragraph 2, the aforementioned deadline of two months shall run from notice of amendment made to the provisions regarding the branches.

4. CONSOB shall be notified in advance by the competent authority of the EU country of origin of any amendment to the information included in the notice referred to in Paragraph 1, in compliance with the provisions of Commission Delegated Regulation (EU) 2017/1018 of June 29, 2016, and of the Implementing Regulation issued pursuant to Articles 34, Para. 9 and 35, Para. 12 of Directive 2014/65/EU.

Article 33
(*Performance of services without establishing branches*)

1. EU investment firms can provide investment services and activities eligible for mutual recognition in Italy, with or without ancillary services, without establishing local branches, even using associated dealers established in the EU country of origin on the condition that CONSOB has been notified by the authority of the EU country of origin, according to the methods indicated in Commission Delegated Regulation (EU) 2017/1018 and in the Implementing Regulation issued pursuant to Articles 34, Para. 9 and 35, Para. 12 of Directive 2014/65/EU.

2. The associated dealers referred to in Paragraph 1 cannot hold money and/or financial instruments of clients or potential clients of the party for whom they operate.

3. CONSOB shall be notified in advance by the competent authority of the EU country of origin of any amendment to the information included in the notice referred to in Paragraph 1, in compliance with the provisions of Commission Delegated Regulation (EU) 2017/1018 of June 29, 2016, and of the Implementing Regulation issued pursuant to Articles 34, Para. 9 and 35, Para. 12 of Directive 2014/65/EU.

Article 34
(*Services not eligible for mutual recognition*)

1. After consultation with the Bank of Italy, CONSOB shall authorise the practice in Italy by EU investment firms of the services provided for pursuant to Article 18, Para. 5 of the Consolidated Law on Finance, not eligible for mutual recognition.

2. The granting of the authorisation is subject to the following conditions:

a) the actual performance in the EU country of origin, based on the local provisions in force, of the services that the investment firm intends to perform in Italy;

b) presentation of a programme of activities including, in particular, details of the services that

the investment firm intends to provide, including a description of the foreseen type of transactions, the procedures adopted and the type of ancillary services that it intends to perform, as well as, in any case, indication of whether the services shall be provided by means of a branch;

c) adoption of an organisational and equity structure compatible with the service to be authorised.

3. The application for authorisation, drafted in accordance with the provisions of Annex 2, shall be submitted to CONSOB. The provisions referred to in Articles 7, Para. 4 and 5 and Article 28 shall apply.

4. CONSOB shall verify compliance with the conditions referred to in Paragraph 2 for the issue of authorisation and, after consultation with the Bank of Italy, shall act on the application within the deadline of one hundred and twenty days. Notification of the resolution shall be sent to the applicant firm and to the authority of the EU country of origin.

5. CONSOB shall be notified of any changes concerning the parties that perform the administrative or control functions, shareholders controlling the investment firm, the managers of the branch of this firm, where established, as well as any other changes to significant process elements that occur during the application process, before they come into effect or, where this is not possible, within ten business days of occurrence of the event.

6. CONSOB and the Bank of Italy shall notify the investment firm of the conditions, including the rules of conduct, according to which, for reasons of general interest, the services must be performed. The provisions referred to in Articles 7, 9, 10, 11, 12, 13 and 28 shall apply.

BOOK III
THE PROVISION OF INVESTMENT SERVICES AND ACTIVITIES AND ANCILLARY SERVICES

PART I
PRELIMINARY PROVISIONS

Article 35
(*Definitions*)

1. In this Book, the following are understood as indicated:

a) "stockbrokers": registered on the list referred to in Article 201, Para. 7 of the Consolidated Law on Finance;

b) "authorised intermediaries" or "intermediaries": Italian investment firms ("SIM" in the Italian acronym), including the companies referred to in Article 60, Para. 4 of Legislative Decree 415 of 1886; Italian banks authorised to provide investment services and activities; asset management companies authorised to provide portfolio management services, investment

advice and to receive and transmit orders; EU management companies that provide portfolio management services and investment advice by means of branches established in Italy; EU AIFMs with branches in Italy that provide portfolio management services, investment advice and the services of receiving and transmitting orders; EU investment firms and banks with branches in Italy; as well as third country firms authorised to perform investment services and activities in Italy. "Authorised intermediaries" or "intermediaries" are also understood to mean stockbrokers, financial intermediaries registered on the register provided for by Article 106 of the Consolidated Banking Law, the company Poste Italiane - Divisione Servizi di Banco Posta authorised pursuant to Article 2 of Presidential Decree 144 of March 14, 2001, limited to the provision of investment services and activities for which they are authorised;

c) "client": natural or legal person provided with investment or ancillary services;

d) "professional client": private professional clients who meet the requirements referred to in Annex 3 of this Regulation and the public professional clients who meet the requirements referred to in the regulations issued by the Ministry of Economy and Finance pursuant to Article 6, Para. 2-*sexies*, of the Consolidated Law on Finance;

e) "retail client": clients that are neither professional clients nor qualified counterparties;

f) "equivalent market": third country market considered equivalent to a regulated market, in compliance with the provisions of Article 25, Para. 4, Part 2, of Directive 2014/65/EU, as amended by Directive 2016/1034/EU.

PART II
TRANSPARENCY AND FAIRNESS IN THE PROVISION OF INVESTMENT SERVICES/ACTIVITIES AND ANCILLARY SERVICES

TITLE I
INFORMATION, ADVERTISING AND PROMOTIONAL MESSAGES AND CONTRACTS

Chapter I
Information and advertising and promotional messages

Article 36
(*General information requirements*)

1. All information, including advertising and promotional messages sent by intermediaries to clients or potential clients must be accurate, clear and not misleading. Advertising and promotional messages shall be clearly identifiable as such.

2. Intermediaries shall provide clients or potential clients promptly with appropriate and comprehensible information enabling reasonable understanding of the nature of the investment service and the specific type of financial instrument being offered, as well as the connected risks and, consequently, allow them to make fully informed investment decisions. This information refers to:

a) the intermediary and relative services;

b) the financial instruments and investment strategies offered, including due guidelines and warnings on the risks associated with investments relating to these instruments or to certain investment strategies, as well as indication of whether the financial instruments are intended for retail or professional clients, taking into account the reference market referred to in Article 21, Para. 2-*bis,* of the Consolidated Law on Finance;

c) execution venues;

d) the related costs and charges, including information on both investment services and ancillary services, the cost of any advice and of the financial instrument recommended or offered to the client and the methods of payment by the client, including any third-party payments. Information on costs and charges, including those related to the investment service and the financial instrument, not caused by the occurrence of an underlying market risk, shall be presented in aggregate form to allow the client to understand the total cost and its overall effect on the return and, upon client request, in analytical form. Where applicable, this information is provided to the client at regular intervals, and in any case at least once a year, for the full period of the investment**. If the agreement for the purchase or sale of a financial instrument is concluded via a means of distance communication that prevents advance communication of information on costs and charges, the intermediaries can provide this information in electronic format or on paper, if so requested by the retail client, without undue delay, after the conclusion of the operation, provided that the following conditions are simultaneously met:**

i) **The client has accepted to receive the information without undue delay shortly after the conclusion of the operation;**

ii) **The intermediary has agreed to postpone the conclusion of the operation until the client receives the information.**

The intermediaries give clients the chance to receive information on costs and charges by telephone before the conclusion of the operation[36]**.**

2-*bis*. The provisions referred to in paragraph 2, letter d), shall not apply to investment services other than investment advice services and portfolio management rendered to professional clients[37]**.**

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36 Letter thus amended with Resolution no. 22430 of 28.7.2022, which added the last clauses. **Article 3, paragraph 2 of Resolution no. 22430 of 28.7.2022 provides that: "The changes made by this Resolution to Article 36, paragraph 2, letter d), of the Intermediaries' Regulation shall apply as from the date of application of the national primary-law provisions implementing Article 24, paragraph 5-bis of Directive 2014/65/EU, as amended by Directive (EU) 2021/338."**

37 Letter inserted with Resolution no. 22430 of 28.7.2022.

3. For the purposes of this article, the intermediaries referred to in Article 35, Para. 1, Letter *b)* shall apply Articles 44, 45, 46, 47, 48, 49, 50, 51 and 52 of Regulation (EU) 2017/565. Intermediaries who hold financial instruments or sums of money belonging to clients provide them with the information referred to in Article 49 of the aforementioned regulation, where pertinent, including pursuant to the Bank of Italy regulation adopted in compliance with Article 6, Para. 1 of the Consolidated Law on Finance.

4. The intermediaries referred to in Article 35, Para. 1, Letter *b)* who provide independent investment advice shall apply Article 53 of Regulation (EU) 2017/565.

Chapter II
Contracts

Article 37
(*Contracts*)

1. Intermediaries shall provide their own investment services, including investment advice involving the performance of periodic evaluation of the suitability of the recommended financial instruments or services, on the basis of an appropriate written contract; a copy of this contract shall be given to the client.

2. The intermediaries referred to in Article 35, Para. 1, Letter *b)* shall apply Article 58 of Regulation (EU) 2017/565.

3. Contracts with retail clients:

a) specify the services provided and their characteristics, indicating the contents of the services and the types of financial instruments and transactions concerned;

b) establishes the period of effectiveness and the methods of renewal of the contract, as well as the methods to be adopted for amending the contract;

c) indicates the methods by means of which the client can issue orders and instructions;

d) establishes the frequency, type and content of the documents to be given to the client in reporting the activity performed;

e) indicates the fees payable to the intermediary or the objective criteria for their determination, specifying the relative methods of collection and, unless otherwise notified, the incentives received in compliance with Title V;

f) indicates whether investment advice may be provided in connection with the investment service and the relative provision methods and content;

g) indicates any other contractual conditions agreed with the investor for the provision of the service;

h) indicates the procedures for the out-of-court resolution of disputes, defined pursuant to

Article 32-*ter* of the Consolidated Law on Finance.

4. Without prejudice to the provisions of the Consolidated Banking Law, the provisions referred to in this article shall apply to the ancillary service of granting loans to investors.

Article 38

(*Contracts relating to portfolio management*)

1. In addition to that established by Article 37, contracts with retail customers concerning the management of portfolios:

a) indicates the types of financial instruments that can be included in the client portfolio and the types of operations that can be performed on these instruments, including any limits;

b) indicates the management objectives, the level of risk within which the operator may exercise its discretion and any specific restrictions to these powers of discretion;

c) indicates whether the client portfolio can be leveraged;

d) provides a description of the reference parameter, where significant, to which the return of the client portfolio will be compared;

e) indicates whether the intermediary delegates to third parties the execution of the assignment received, specifying the details of the mandate;

f) indicates the method and frequency of the evaluation of the financial instruments included in the client portfolio.

2. For the purposes referred to in Paragraph 1, Letter *a*), the contract shall specify the possibility for the intermediary to invest in financial instruments not eligible for trading on a regulated market, in derivatives or in illiquid or highly volatile instruments; or to carry out short sales, purchases via borrowed sums of money, financing transactions via securities or any transaction involving the payment of margins, deposit of guarantees or exchange rate risk.

Article 39

(*Improper use of guarantee contracts with transfer of title*)

1. Without prejudice to the provisions of Article 23, Paragraph 4-*bis,* of the Consolidated Law on Finance, intermediaries shall evaluate carefully the use of guarantee contracts with transfer of title in consideration of the relationship that exists between the obligations of the client towards the intermediary and the activities of the client subject to such contracts. Intermediaries must be able to demonstrate that they have fulfilled this obligation.

2. For the purposes of Paragraph 1, intermediaries shall take account of the following factors:

a) whether there is only one very weak connection between the obligations of the client towards the intermediary and the use of guarantee contracts with transfer of title, even in the light of the probability that the exposure of the client with regard to the intermediary proves to be low or negligible;

b) whether the amount of available liquidity or financial instruments of clients subject to guarantee contracts with transfer of title far exceeds the exposure arising from client obligations or is entirely independent of such exposure, as in the case in which the customer has no obligations toward the intermediary; and

c) whether the totality of financial instruments or the clients' available liquidity is subjected to guarantee contracts with transfer of title, without taking into account the specific obligations of each client towards the intermediary.

3. When intermediaries use guarantee contracts with transfer of title, they shall notify professional clients and qualified counterparties of the related risks and the effect of each guarantee contract with transfer of title on their financial instruments and available liquidity.

TITLE II
ADEQUACY, APPROPRIATENESS AND "MERE EXECUTION OR RECEPTION OF ORDERS"

Chapter I
Appropriateness

Article 40
(*General principles*)

1. In order to recommend investment services and financial instruments that are suited to the client or potential client and, in particular, that are suitable in terms of risk tolerance and the ability to sustain losses, in the provision of investment advice or portfolio management, intermediaries shall obtain from the client or potential client necessary information on:

a) investment knowledge and experience with regard to the specific type of instrument or service;

b) their financial situation, including the ability to sustain losses;

c) the objectives of the investment, including risk tolerance.

2. The intermediaries referred to in Article 35, Para. 1, Letter *b)* shall apply Article 54, Paragraphs 1 to 11 and 13 and 55 of Regulation (EU) 2017/565.

Article 40-*bis*
(Change of financial instruments)

1. For the purpose of this Article, "change of financial instruments" means the sale of a financial instrument and the purchase of another financial instrument, or the exercise of the right to change an existing financial instrument.

2. Where the intermediaries provide investment or portfolio management advice services that imply changes of financial instruments, they shall acquire necessary information on the client's investment and shall analyse the costs and benefits of such

change of financial instruments.

3. In the event of the provision of investment advice services, the intermediaries shall communicate to the client if the benefits deriving from the changes of financial instruments are higher or lower than the related costs.

4. This article shall not apply to the services provided to professional clients, unless these clients communicate to the intermediaries, in electronic format or on paper, that they intend to benefit from the analysis referred to in paragraphs 2 and 3. The intermediaries shall keep the communications sent by the clients in accordance with this paragraph[38].

Article 41
(*Statement of suitability of investment advice services*)

1. The intermediaries who provide investment advice services provide retail clients, on a durable medium, before the transaction is performed, with a statement of suitability specifying the advice given and indicating why it corresponds to the preferences, objectives and other characteristics of the client.

2. In the event that, for the purposes of performing the transaction, a means of distance communication is used that prevents the prior delivery of a statement of suitability as referred to in Paragraph 1, this may be provided to the client, on a durable medium, without undue delay, immediately after the conclusion of the transaction, on the condition that:

a) the client has given his consent; and

b) the intermediary has given the client the option of delaying the execution of the transaction in order to receive the statement of suitability in advance.

3. The intermediaries referred to in Article 35, Para. 1, Letter *b)* shall apply Article 54, Paragraph 12 of Regulation (EU) 2017/565.

Chapter II
Suitability

Article 42
(*General principles*)

1. When providing investment services other than investment advice and portfolio management, intermediaries ask clients or potential clients to provide information on their knowledge and experience regarding the specific type of instrument or service offered or requested, in order to determine whether the service or the instrument in question is appropriate for the client or potential client.

2. Should the intermediaries consider, pursuant to Paragraph 1, that the instrument or the service

38 Article inserted with Resolution no. 22430 of 28.7.2022.

is not appropriate for the client or potential client, they shall warn the client of this situation. The warning may be provided in a standardised format.

3. Should the client or potential client choose not to provide the information referred to in Paragraph 1 or should this information not be sufficient, the intermediaries shall warn the client or potential client that these circumstances will prevent them from determining whether the service or the instrument is appropriate for him. The warning may be provided in a standardised format.

4. The intermediaries referred to in Article 35, Para. 1, Letter *b)* shall apply Articles 55 and 56 of Regulation (EU) 2017/565.

Chapter III
Mere execution or reception of orders

Article 43
(*Conditions*)

1. Intermediaries can provide services of order execution on behalf of clients or the reception and transmission of orders, with or without ancillary accessories - excluding the granting of credit or loans referred to in Annex I, Section B, Number 1), of the Consolidated Law on Finance not consisting of already existing client credit limits of loans, current accounts and overdrafts - without it being necessary to obtain the information or perform the assessment referred to in Chapter II, when all the following conditions are met:

a) the above mentioned services are connected to one of the following non-complex financial instruments:

1) shares admitted to trading on a regulated market or on an equivalent third country market, or in a multilateral trading system, excluding shares of UCIs other than UCITS and shares incorporating a derivative instrument;

2) bonds or other forms of securitised debt, admitted to trading on a regulated market or an equivalent third country market, or in a multilateral trading system, excluding those incorporating a derivative instrument or a structure that makes it difficult for the client to understand the associated risk;

3) money market instruments, excluding those incorporating a derivative instrument or a structure that makes it difficult for the client to understand the associated risk;

4) shares or units in UCITS, excluding the structured UCITS referred to in Article 36, Paragraph 1, Part 2, of Regulation (EU) 583/2010;

5) structured deposits, excluding those incorporating a structure that makes it difficult for the client to understand the risk of return or the cost of exiting before term;

6) other non-complex financial instruments that meet the criteria specified under Article 57 of Regulation (EU) 2017/565;

b) the service is provided on the initiative of the client or potential client;

c) the client or potential client has been clearly informed that in the provision of such a service, the intermediary is not required to assess its appropriateness and that, therefore, the investor does not benefit from the protection offered by the relative provisions. The warning may be provided in a standardised format;

d) the intermediary complies with the obligations on conflicts of interest.

2. For the purposes of Paragraph 1, Letter *a*), Numbers 2), 3) and 5), intermediaries shall take into account the Guidelines issued by ESMA pursuant to Article 25, Paragraph 10 of Directive 2014/65/EU.

Chapter IV
Combined sales procedures

Article 44
(*Combined sales procedures*)

1. In the event that an investment service is offered in conjunction with another service or product as part of a package or as a condition for obtaining such an agreement or package, intermediaries shall inform the client if the various components can be bought separately and provide separate details of the costs and charges of each component.

2. When a combined sales procedure is offered to a retail client and the risks associated with this procedure are likely to be different from those associated with the components taken separately, intermediaries shall provide a suitable description of the different elements of the agreement or package and of the manner in which its composition alters the risks.

3. When offering as an advisor and recommending a package of aggregate services or products, intermediaries shall ensure that the whole package is suited to the needs of the client, in compliance with Article 40.

4. In the case of the provision of services other than advice and portfolio management, intermediaries shall evaluate the appropriateness of the package of services or products as a whole, in accordance with Article 42.

5. For the purposes of this article, intermediaries shall take into account the Guidelines issued by ESMA pursuant to Article 24, Paragraph 11 of Directive 2014/65/EU.

Article 45
(*Mortgage loan agreements*)

1. If a mortgage loan agreement subject to the provisions on the client creditworthiness checks provided for by Article 120-*undecies* of the Consolidated Banking Law has the preliminary condition of providing the client with an investment service on mortgage bonds issued specifically to ensure the financing of the mortgage loan on the same terms as this service, in order that loan be payable, refinanced or redeemed, this service is not subject to the obligations provided for by Articles 37, 40, 41, 42, 43, 60, and by Title IX.

TITLE III
BEST EXECUTION

Chapter I
Execution of orders on behalf of clients

Article 46
(*Preliminary provisions*)

1. For the purposes of this article, the intermediaries referred to in Article 35, Para. 1, Letter *b)* shall apply Articles 64 and 66 of Regulation (EU) 2017/565 and Commission Regulation (EU) 2017/576 of June 8, 2016.

Article 47
(*Obligation to execute orders on the terms most favourable to the client*)

1. Intermediaries shall take sufficient measures and, to this end, shall take all reasonable steps to obtain the best possible result for their clients, taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to order execution.

2. For the purposes of this article, intermediaries shall adopt an order execution strategy intended to:

a) identify, for each category of instruments, at least the execution venues that enable the investment firm to obtain on a consistent basis the best possible result for the execution of client orders;

b) direct the choice of execution venue to among those identified pursuant to Letter *a*), also taking into account own commissions and the firm's costs for the execution of the order in each of the eligible execution venues.

3. When intermediaries execute orders on behalf of a retail client:

a) the choice referred to in Paragraph 2, Letter *a*) is made in terms of the total consideration, consisting of the price of the financial instrument and the costs related to execution. The costs include all expenses incurred by the client which are directly related to the execution of the order, including execution venue fees, clearing and settlement fees, and any other fees paid to third parties involved in the execution of the order. Factors other than the total consideration may take precedence over the immediate price and cost factors if they are instrumental in delivering the best possible result in terms of the total consideration to the retail client;

b) the choice referred to in Paragraph 2, Letter *b)* is made on the basis of the total consideration.

4. In any case, should the client issue specific instructions, the intermediary shall execute the order in compliance, limited to the elements referred to in the indications received, with these instructions.

5. Intermediaries do not receive remuneration, discounts or non-monetary benefits for directing orders towards a particular trading or execution venue, in breach of the obligations on conflicts of interest or incentives.

6. Intermediaries shall inform clients of the venue in which the orders have been executed on their behalf.

7. Intermediaries shall summarise and make public on an annual basis, for each class of financial instruments, the top five execution venues in terms of trading volumes where they executed client orders in the preceding year and information on the quality of execution obtained.

Article 48
(*Information on the order execution strategy*)

1. Intermediaries:

   a) shall provide their clients with appropriate information on the order execution strategy adopted pursuant to Article 47, Paragraph 2. This information explains clearly, in sufficient detail and in an easy to understand way how client orders will be executed;

   b) shall specify to clients whether the strategy envisages that orders may be executed outside of a trading venue.

2. Intermediaries:

   a) shall obtain the prior consent of the client for the order execution strategy;

   b) shall obtain the prior express consent of the client before proceeding with the execution of orders outside of a trading venue. This consent can be expressed in general or in relation to the individual transactions.

3. Intermediaries must be able to demonstrate, upon request, to their customers that they have executed orders in accordance with the execution strategy, and to CONSOB that they have fulfilled the obligations of this chapter.

Article 49
(*Monitoring and updating execution measures and strategies*)

1. Intermediaries shall monitor the effectiveness of their measures of order execution and their execution strategy in order to identify and, where appropriate, correct any deficiencies.

2. Intermediaries shall evaluate regularly whether the events included in the order execution strategy ensure the best possible result for the client or whether changes should be made to the measures adopted, also taking account the information published pursuant to Articles 65-*septies*, Paragraph 6 of the Consolidated Law on Finance and 47, Paragraph 7, of this Regulation.

3. Intermediaries shall notify clients of any relevant changes made to the measures for order execution and to the execution strategy adopted.

Chapter II
Reception and transmission of orders and portfolio management

Article 50
(*Measures for the transmission of orders on the terms most favourable to the client*)

1. In the provision of services of the reception and transmission of orders and portfolio management, the intermediaries referred to in Article 35, Paragraph 1, Letter *b*) shall apply Article 65 of Regulation (EU) 2017/565.

TITLE IV
MANAGING CLIENT ORDERS

Article 51
(General principles)

1. Intermediaries handling orders on behalf of clients shall implement measures to ensure a rapid, fair and efficient dealing of these orders with respect to other client orders and to the trading interests of the intermediary.

2. For the purposes of Paragraph 1, intermediaries shall handle equivalent client orders based on the time of their reception.

3. In the case of client orders with price limit, in relation to shares admitted to trading on a regulated market or traded in a trading venue, which are not executed immediately under prevailing market conditions, the intermediaries authorised to execute orders on behalf of clients shall adopt measures to facilitate the fastest execution possible of such orders by publishing them immediately in a way that is easily accessible to other market participants, unless the client expressly provides different instructions. To this end, the intermediaries may transmit client orders with price limit to a trading venue. The publication requirement shall not apply in the case of orders with price limit concerning a high volume if compared with normal market size, as determined pursuant to Article 4 of Regulation (EU) 600/2014.

4. Intermediaries shall apply Articles 67, 68 and 69 of Regulation (EU) 2017/565.

5. The intermediaries referred to in Article 35, Paragraph 1, Letter *b*) shall apply this article with the exception of Para. 3, and Articles 67, 68 and 69 of Regulation (EU) 2017/565, with the exception of Paragraph 1, Letter *c*) of Article 67, and, in the event that the customer has not issued specific instructions, of Paragraph 1, Letter *b)* of Article 68 of this Regulation, even in the case of the provision of portfolio management services.

TITLE V
INCENTIVES

Chapter I
Incentives

Article 52
(*General principles*)

1. Without prejudice to that established under Articles 24, Para. 1-*bis*, and 24-*bis*, Para. 2, Letter *b*) of the Consolidated Law on Finance, intermediaries may not, in relation to the provision of an investment or ancillary service, pay or receive fees or commissions or provide or receive non-monetary benefits to or from any entity other than the client or a person acting on behalf of the client, unless the payments or benefits:

a) have the purpose of enhancing the quality of service provided to the customer; and

b) do not prejudice the fulfilment of the obligation to act honestly, fairly and professionally in the best interests of the client.

2. The client must be clearly informed of existence, nature and amount of the payments or benefits referred to in Paragraph 1 or, where the amount cannot be ascertained, the method of calculation of this amount, in a complete, accurate and comprehensible manner, prior to the provision of the investment or ancillary service. Where applicable, intermediaries shall inform their clients of the mechanisms for transferring to clients the fees, commissions or monetary or non-monetary benefits received for the performance of the investment service or ancillary service. Information shall be provided in a comprehensible form, in order that clients or potential clients may reasonably understand the nature of the investment service and the specific type of financial instrument being offered, as well as the connected risks and, consequently, allow them to make fully informed investment decisions.

3. The obligations referred to in this article shall not apply to payments or benefits allowing the provision of investment services or that are necessary for that purpose, such as custodial, regulation and exchange fees, compulsory withdrawals or legal fees, and that, by their nature, cannot come into conflict with the duty of the intermediary to act honestly, fairly and professionally in accordance with the best interests of client.

Article 53
(*Conditions of eligibility of incentives*)

1. For the purposes of Article 52, Paragraph 1, Letter *a*), fees, commissions or non-monetary benefits are regarded as designed to improve the quality of service provided to the customer, should all the following conditions be fulfilled:

a) they are justified by the provision to the client of an additional or higher level service, proportional to the incentives received, such as:

1) the provision of non-independent investment advice together with access to a wide range of suitable financial instruments that includes an appropriate number of

instruments of third parties who do not have close ties with the intermediary;

2) the provision of non-independent investment advice together with assessment, at least on an annual basis, of the continued suitability of the financial instruments in which the customer has invested, or the provision of another continuous service that may be of value to the customer, such as advice on optimal asset allocation; or

3) access, at a competitive price, to a wide range of financial instruments capable of fulfilling the needs of the client, including an appropriate number of instruments of third parties who do not have close ties with the intermediary, together with the provision of:

i) value added instruments, such as objective information instruments that help clients make investment decisions or allow them to monitor, model and adjust the range of financial instruments in which they have invested; or

i) periodic performance reports, as well as reports on the costs and charges related to the financial instruments;

b) they do directly benefit the intermediary that receives the incentives, shareholders or employees of the intermediary, without awarding a tangible benefit to the client;

c) the incentives received or paid on an ongoing basis are justified by the existence of a continuous benefit for the client.

2. A fee, commission or non-monetary benefit is inadmissible where the provision of services to the client is distorted or negatively affected by the fee, commission or non-monetary benefit.

3. Intermediaries shall fulfil the conditions referred to in Paragraphs 1 and 2 as long as they continue to pay or receive the fee, commission or non-monetary benefit.

4. Intermediaries shall retain proof of the fact that the fees, commissions or non-monetary benefits paid or received are designed to improve the quality of service provided to the customer:

a) by keeping an internal list of all fees, commissions and non-monetary benefits received from third parties for the provision of investment or ancillary services; and

b) by recording the way in which the fees, commissions and non-monetary benefits paid or received by the intermediary, or that the intermediary intends to use, improve the quality of the services provided to clients, as well as the measures taken in order not to prejudice the duty to act in an honest, impartial and professional manner to best serve the interests of the clients.

5. In relation to each payment or benefit received by or paid to third parties, intermediaries:

a) shall provide clients with the information referred to in Article 52, Paragraph 2 prior to the provision of investment or ancillary services. Smaller non-monetary benefits can be described in a generic manner. Other non-monetary benefits received or paid are quantified and indicated separately;

b) where they have not been able to quantify *ex-ante* the amount of the payment or benefit to be received or paid and have instead informed the clients of the method of calculation of that amount, shall inform clients *ex-post* of the exact amount of the payment or of the benefit received or paid; and

c) in the case of continuous incentives, shall notify clients individually, at least once a year, of the actual amount of the payments or benefits received or paid. Smaller non-monetary benefits can be described in a generic manner.

6. In the fulfilment of the obligations referred to in Paragraph 5, intermediaries shall take into account the provisions on costs and charges provided for by Article 36, Paragraph 2, Letter *d*) of this Regulation and Article 50 of Regulation (EU) 2017/565.

7. Where several intermediaries are involved in a distribution chain, each intermediary who provides an investment or ancillary service shall fulfil the obligations of disclosure towards its clients.

Chapter II
Incentives in relation to the provision of independent portfolio management and investment advice services

Article 54

(*Incentives concerning independent portfolio management and advice services*)

1. Without prejudice to that established under Articles 24, Paragraph 1-*bis* and 24-*bis*, Paragraph 2, Letter *b*) of the Consolidated Law on Finance, intermediaries providing independent portfolio management or investment advice services:

a) shall return to the client, as soon as reasonably possible after their reception, all fees, commissions or monetary benefits paid or supplied by third parties or by an entity acting on their behalf, in relation to the services provided to the client. All fees, commissions or monetary benefits received from third parties in relation to the provision of independent investment advice services or of portfolio management services shall be transferred in full to the client;

b) shall establish and implement a policy to ensure that fees, commissions or monetary benefits paid or provided by third parties, or by an entity acting on their behalf, are assigned and transferred to each individual client;

c) shall inform clients about the fees, commissions or any monetary benefit transferred to them via suitable means.

2. The intermediaries referred to in Paragraph 1 do not accept non-monetary benefits, with the exception of smaller entities eligible according to the provisions of Paragraph 3.

3. The following smaller, non-monetary benefits only are eligible:

a) information or documentation relating to a financial instrument or an investment service of

a generic nature or customised according to specific customer;

b) written material from third parties, commissioned and paid for by a corporate issuer or by a potential issuer to promote a new issue by the firm, or when the third party is contractually committed and paid by the issuer to produce such material on a permanent basis, provided that the agreement is clearly documented in the material and that it is made available to any intermediary who wishes to receive it or to the general public at the same time;

c) participation in conferences, seminars and other training events on the benefits and features of a given financial instrument or investment service;

d) hospitality of a reasonable *de minimis* value, such as food and drink during a business meeting or a conference, seminar or other training events referred to in Letter *c*).

4. Eligible smaller, non-monetary benefits must be reasonable and proportionate and such that they do not affect the behaviour of the intermediary in any way that would be prejudicial to the interests of the client.

5. Clients are informed of eligible smaller, non-monetary benefits prior to the provision of investment or ancillary services. These benefits can be described in a generic manner.

Chapter III
Investment research

Article 55
(*Conditions*)

1. The provision of investment research by third parties to the intermediaries providing the portfolio management service or other investment services or accessories is not considered an incentive if it is paid:

a) directly by the intermediaries by means of own resources;

b) through a dedicated research expense account controlled by the intermediaries, provided that the following conditions are met:

1) the expense account is funded by a specific research expense charged to the clients;

2) the intermediaries establish and regularly review a research budget;

3) the intermediaries are responsible for managing the expense account. The management of this account may be delegated to third parties, provided that this will facilitate the purchase of research provided by third parties and that payments to these third parties are made, without undue delay, in the name of intermediaries, in accordance with their instructions;

4) the intermediaries shall assess regularly, on the basis of strict criteria, the quality of the purchased research and the degree to which this research contributes to investment decision-making in the interest of the clients. Intermediaries shall formulate in writing a

special policy outlining all the elements required for this assessment, including the size of the benefit that research purchased through the expense account can bring to client portfolios, taking into account, if appropriate, the investment strategies applicable to the various types of portfolio and the approach that will be adopted to spread the costs of research fairly among the various client portfolios. Clients are provided with this policy.

Article 56
(*Research costs*)

1. For the purposes of Article 55, Paragraph 1, Letter *b*), Number 1), the costs of research charged to the clients:

a) shall be determined solely on the basis of a research budget defined pursuant to Article 57; and

b) shall not be related to the volume and/or value of the transactions performed on behalf of the clients.

2. When the costs of research charged to the clients are collected together with a trading commission and not separately, these costs shall be identified separately and the conditions referred to in Articles 55, Paragraph 1, Letter *b*) and 58, Paragraph 1, Letters *a*) and *b*) shall be fulfilled.

3. The total sum of the research costs received from clients cannot exceed the research budget, except as provided for by Article 57, Paragraph 4.

4. The management mandate or other contract documents regulating relationships with clients shall include indication of the research costs determined on the basis of the budget referred to in Paragraph 1 and the frequency with which these costs will be charged to each customer over the course of the year.

Article 57
(*Research budget*)

1. For the purposes of Article 55, Paragraph 1, Letter *b*), Number 2), research budget shall be managed exclusively by the intermediaries and is based on a reasonable assessment of the need for research provided by third parties.

2. In order to ensure that the budget is managed and used in the best interest of the customers, the allocation of the budget for the purchase of third party research shall be subject to appropriate controls and to supervision by the intermediaries' senior management.

3. The controls referred to in Paragraph 2 shall include the way in which payments are made to research providers and the methods of determining the amounts they are paid, taking into account the criteria laid down in Article 55, Paragraph 1, Letter *b*), Number 4).

4. Intermediaries can increase the research budget only after having clearly informed the clients of the circumstances.

5. In the event that surplus funds remain in the research expense account at the end of the period

determined in the budget, the intermediaries shall adopt appropriate procedures to reimburse the clients for these amounts or to compensate them by offsetting against the costs calculated for the following period on the basis of the relative budget.

6. Intermediaries shall not use the research budget and the relevant expense account to fund internal research.

Article 58
(*Disclosure*)

1. When using a research expense account, intermediaries shall provide clients with the following:

a) prior to the provision of investment services, information on the foreseen amount of the research budget and on the estimated research costs for each client;

b) information, on an annual basis, on the total costs that each customer has incurred for research;

c) upon request by the client or by CONSOB, a list of the research providers who have been paid from this account, as well as, referring to a certain period of time, the total amount they were paid, the benefits and services received and a comparison between the total amounts spent using this account and those set out in the budget, indicating any downgrades or surpluses in the event of available funds remaining in the account.

Article 59
(*Execution of orders*)

1. Intermediaries handling orders shall identify separately the related costs. These costs shall reflect exclusively the costs of execution.

2. The provision of any other benefit or service to intermediaries established in the European Union is subject to a separately identifiable cost; these benefits or services and the relative costs shall not be affected or conditioned by the levels of payment for execution services.

TITLE VI
REPORTS

Article 60
(*Reports to clients*)

1. The intermediary shall provide clients with reports on a durable medium, including periodicals, on the services provided, taking into account the type and complexity of the financial instruments and the nature of the service. These reports shall include, where applicable, the costs of the transactions and the services provided on behalf of the clients.

2. Intermediaries providing portfolio management services or who have informed clients that they will carry out periodic assessment of the suitability of financial instruments shall provide retail clients with periodic reports containing an up-to-date statement indicating the reasons why the investment corresponds to the preferences, objectives and other characteristics of the client. They

shall also apply Article 54, Paragraphs 12, Part 3 and 13 of Delegated Regulation (EU) 2017/565.

3. The intermediaries referred to in Article 35, Para. 1, Letter *b)* shall apply Articles 59, 60, 62 and 63 of Regulation (EU) 2017/565. Article 59 of the aforementioned Regulation shall also apply to the provision of order reception and transmission services, as well as placement, including door-to-door selling.

3-*bis*. Paragraphs 1 and 3 of this article shall not apply to the services provided to professional clients, unless these clients communicate to the intermediaries, in electronic format or on paper, that they intend to receive the periodic reports. The intermediaries shall keep the communications sent by the clients in accordance with this paragraph[39].

TITLE VII
RELATIONS WITH ELIGIBLE COUNTERPARTIES

Article 61
(*Relations with eligible counterparties*)

1. Eligible counterparties are clients to whom are provided order execution and/or trading services on their own behalf and/or reception and transmission orders, defined as such by Article 6, Paragraph 2-*quater*, Letter *d*), Numbers 1), 2) and 3), of the Consolidated Law on Finance.

2. Eligible counterparties are also the firms referred to in Annex 3, Part I, Points (1) and (2) not already referred to under Paragraph 1, to whom are provided the services mentioned therein, as well as the firms that are qualified as such, pursuant to Article 30, Para. 3 of Directive 2014/65/EU, by the legal system of the EU country in which they are established or that are subject to identical conditions and requirements in the EU country in which they are established. Intermediaries shall obtain from such counterparties explicit confirmation, in general or in relation to individual transactions, that they accept being treated as eligible counterparties.

3. Intermediaries shall act honestly, fairly and professionally towards eligible counterparties and shall use clear and non-misleading communication, taking into account the nature of the party and its activity.

4. Article 51, Para. 3, as well as the provisions of Book IV, except for Article 93, shall apply to the provision of investment services and related ancillary services and to eligible counterparties. Intermediaries shall notify their new clients and existing clients that they have been reclassified as eligible counterparties in accordance with Directive 2014/65/EU[40]**.**

5. Classification as an eligible counterparty shall not prejudice the right of the party to request, in general or for each individual transaction, to be treated as a professional client or, expressly, as a retail client. The intermediaries referred to in Article 35, Para. 1, Letter *b)* **shall apply Article 71**

39 Paragraph inserted with Resolution no. 22430 of 28.7.2022

40 Paragraph thus replaced with Resolution no. 22430 of 28.7.2022.

of Regulation (EU) 2017/565[41]**.**

TITLE VIII[42]
GOVERNMENT OF FINANCIAL INSTRUMENTS

Chapter I
General provisions

Article 62
(*Definitions*)

1. For the purposes of this Title, the following are understood as indicated:

a) "intermediaries that produce financial instruments" or "intermediary producers": intermediaries that create, develop, issue and/or design financial instruments or that provide advice to corporate issuers in the performance of these activities;

b) "intermediaries that distribute financial instruments" or "intermediary distributors": intermediaries that offer or recommend financial instruments to clients.

Chapter II
Obligations for intermediary producers

Article 63
(*General principles*)

1. In addition to the provisions of Article 21, Paragraph 2-*bis*, of the Consolidated Law on Finance, intermediary producers shall:

a) adopt, perform and control an approval process for each financial instrument, prior to its marketing or distribution to clients and for every significant amendment to existing financial instruments. The approval process shall specify for each financial instrument the determined reference market of end clients within the relevant client category and shall ensure that all risks specifically related to this market have been analysed and that the planned distribution strategy is consistent with the reference market;

b) take reasonable measures to ensure that financial instruments are distributed to clients within the reference market;

c) make available to intermediary distributors all necessary information on the financial

41 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "shall apply Articles 61 and 71 of Regulation (EU) 2017/565" with the words: "shall apply Article 71 of Regulation (EU) 2017/565."

42 **Article 3, paragraph 3 of Resolution no. 22430 of 28.7.2022 provides that: "The modifications made by this Resolution to the provisions laid down in: *i)* Book III, Part II, Title VIII, of the Intermediaries' Regulation; *ii)* Book IX, Part II, Title V, of the Intermediaries' Regulation, without prejudice to the date of application of Regulation (EU) 2021/1257, shall apply as from 22 November 2022."**

instrument and on its approval process, including its reference market.

Article 64
(*Potential reference market*)

1. Intermediary producers shall identify, with a sufficient level of detail, the potential reference market potential for each financial instrument and specify the type(s) of client with whose needs, characteristics and objectives, **including any sustainability objectives,** the financial instrument is compatible[43] .

2. Intermediaries shall identify the group or groups of clients with whose needs, characteristics and objectives the financial instrument is not compatible. **In reference only to the sustainability factors, the intermediaries are not obliged to carry out the identification referred to in this paragraph for the financial instruments that consider the sustainability factors[44].**

3. In the event that multiple intermediaries collaborate in the creation of a financial instrument, only one reference market shall be identified.

4. Intermediaries that provide financial instruments distributed via other intermediaries shall lay down the requirements and characteristics of clients with whom the instrument is compatible, on the basis of their theoretical knowledge and previous experience of the financial instrument or similar instruments and financial markets, as well as the needs and the characteristics and objectives of the potential end clients.

5. Intermediaries shall determine whether a financial instrument meets the requirements and the characteristics and objectives of the reference market, by examining, inter alia, the following elements:

a) consistency of the risk/return profile of the financial instrument with the reference market;

a-bis) **where relevant, if the sustainability factors of the financial instrument are consistent with the reference market[45];**

b) compliance of the financial instrument with the interests of the client, focusing on possible conflicts arising from a business model that is profitable for the intermediary and unfavourable to the client.

Article 65
(*Process of approval of financial instruments*)

1. Intermediary producers shall establish, implement and maintain appropriate procedures and measures to ensure that the production of the financial instruments complies with the obligations

43 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words "characteristics and objectives" added the words: ", including any sustainability objectives."

44 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which added the last clause.

45 Letter inserted with Resolution no. 22430 of 28.7.2022.

on conflicts of interest, including with regard to the remuneration and incentive systems and, in particular, shall ensure that the creation of financial instruments, including the definition of their characteristics, does not prejudice end customers or the integrity of the market by attenuating and/or transferring own risks or exposure to activities underlying the instrument, where these are already held on their own behalf.

2. Whenever they produce financial instruments, intermediaries shall analyse the potential conflicts of interest, and, in particular, shall assess whether the financial instrument generates a situation in which end clients may suffer prejudice if they assume:

a) exposure opposite to that previously held by the intermediary; or

b) exposure opposite to that which the intermediary intends to hold after the sale of the instrument.

3. Before deciding whether to proceed with the launch of a financial instrument, intermediaries shall assess whether it may be a threat to the proper functioning or the stability of the financial markets.

4. Intermediaries shall perform analysis of the scenario to assess the risk of the financial instrument producing negative results for the end clients and the circumstances in which this may happen. To this end, the financial instrument is assessed in the light of negative circumstances, such as:

a) deterioration of the market context;

b) financial difficulties of the producer or third parties involved in the creation and/or operation of the financial instrument or the occurrence of another counterparty risk;

c) non-sustainability of the financial instrument on a business level; or

d) existence of much higher demand for the financial instrument than expected, such as to compromise the intermediary resources and/or the market of the underlying instrument.

5. Intermediaries shall assess the structure of costs and charges proposed for the financial instrument, examining, inter alia, the following elements:

a) that the costs and charges of the financial instrument are compatible with the requirements, objectives and the characteristics of the market of reference;

b) that the costs and charges do not compromise the expected yield of the financial instrument, for example, in the case in which such costs or charges are equal to, exceed or eliminate almost entirely the expected tax benefits relating to a financial instrument; and

c) that the structure of the costs and charges of the financial instrument is adequately transparent for the reference market, does not hide costs and charges and is not too complex to understand.

Article 66

(*Role of the corporate governing bodies, of business control functions and of personnel*)

1. The governing body with the function of strategic supervision shall exercise the effective control of the financial instrument governance process adopted by the intermediary.

2. The conformity control function shall monitor the development and periodic review of the procedures and measures of governing financial instruments in order to identify the risks of failing to fulfil the obligations provided for in this chapter.

3. The reports of the function of conformity control systematically include information about the financial instruments created by the intermediary and the distribution strategy.

4. Intermediaries shall make available to CONSOB, upon request, the reports referred to in Paragraph 3.

5. Intermediaries shall ensure that the personnel involved in creating the financial instruments have the necessary skills to understand their characteristics and related risks**, including any sustainability factors of the financial instruments**[46].

Article 67

(*Review*)

1. Intermediary producers shall regularly review the financial instruments they have produced, taking into account any event which might affect materially the potential risks for the reference market and assess whether each financial instrument remains consistent with the requirements, characteristics and **objectives, including any sustainability factors, of the reference market** and is distributed to the reference market, or to clients with whose needs, characteristics and objectives the instrument is not compatible[47].

2. Intermediaries shall review financial instruments before any further new issue or relaunch, if they are aware of events that may affect materially the potential risk to investors, and in any case at regular intervals in order to assess whether the operation of the financial instruments continues to fulfil the obligations contained in this chapter.

3. Intermediaries shall determine the frequency of the review on the basis of relevant factors, including factors relating to the complexity or to the innovative nature of the investment strategies pursued.

4. Intermediaries shall identify crucial events capable of negatively affecting the potential risk or expected yield of the financial instrument, such as:

a) the exceeding of a threshold that will affect the return profile of the financial instrument;

46 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words "related risks", added the words: ", including any sustainability factors of the financial instruments."

47 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "objectives of the reference market" with the words: "objectives, including any sustainability factors, of the reference market."

or

b) the solvency of issuers whose securities or guarantees can affect the return of the financial instrument.

5. In the cases referred to in Paragraph 4, intermediaries shall adopt appropriate measures, including, inter alia:

a) provision of significant information on the event and on the relative effects on the financial instrument to the clients or to the intermediary distributors if the intermediary producer does not offer or sell the financial instrument directly to clients;

b) changing the instrument approval process;

c) stopping further issue of the financial instrument;

d) amendment of the financial instrument to avoid unconscionable contract clauses;

e) evaluation of the financial instrument sales channels in order to check that they are appropriate, where the intermediaries realise that the financial instrument is not sold in a manner consistent with the provisions of Article 64, Paragraph 1;

f) contacting the intermediary distributor to assess changes concerning the distribution process;

g) terminating the contract with the intermediary distributor; or

h) informing CONSOB.

Article 68
(*Exchange of information with intermediary distributors*)

1. Intermediary producers shall ensure that information transmitted to intermediary distributors pursuant to Article 63, Paragraph 1, Letter *c*), includes information on appropriate channels for the distribution of the financial instrument, the relative approval process, as well as assessment of the reference market.

2. The information referred to in Paragraph 1 is sufficiently suitable to allow intermediary distributors to understand and recommend or sell correctly the financial instrument.

2-*bis*. Intermediary producers present the sustainability factors of the financial instrument in a transparent manner and provide the distributors with the relevant information to duly keep into account any sustainability-related objectives of the client or potential client[48].

48 Paragraph inserted with Resolution no. 22430 of 28.7.2022.

Article 69
(*Cooperation agreements in the creation of financial instruments*)

1. The intermediaries that, for the purposes of creating, developing, issuing and/or conceiving a financial instrument, collaborate with other parties, even those without authorisation and supervised pursuant to Directive 2014/65/EU, or with third country firms, shall define the mutual responsibilities by means of written agreement.

Article 70
(*Principle of proportionality*)

1. Intermediaries shall comply with the obligations of this chapter in an appropriate and proportionate manner, having regard to the nature of the investment service, of the financial instrument and of the relative reference market.

Chapter III
Obligations for intermediary distributors

Article 71
(*General principles*)

1. In addition to the provisions of Article 21, Paragraph 2-*ter*, of the Consolidated Law on Finance, intermediary distributors shall:

a) review regularly the financial instruments offered or recommended, taking into account any event that might significantly affect the potential risks for the reference market, in order to assess at least whether the financial instrument remains consistent with the requirements of this market and whether the planned distribution strategy continues to be appropriate;

b) when they offer or recommend financial instruments they have not produced themselves, shall take appropriate measures to obtain the information referred to in Article 63, Paragraph 1, Letter *c*) and to understand the characteristics and the reference market identified for each financial instrument.

2. Intermediary distributors shall comply with the obligations provided for in this chapter even when they offer or recommend financial instruments produced by parties not falling within the scope of application of Directive 2014/65/EU. To this end, intermediary distributors shall adopt effective measures and procedures to acquire sufficient information on financial instruments in accordance with the provisions of Article 74.

Article 72
(*Actual reference market*)

1. Intermediary distributors shall adopt appropriate measures and procedures to ensure that the instruments and services that they intend to offer or recommend are compatible with the requirements, the characteristics and objectives, **including any sustainability factor,** of a given reference market and that the distribution strategy is consistent with that market[49].

49 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words "and objectives", added the

2. Intermediaries shall identify and evaluate in an appropriate manner the situation and the needs of the clients for whom the instruments are intended, in order to ensure that the interests of these clients are not compromised by commercial pressures or by the financing requirements of the service provider.

3. Intermediaries shall identify the group or groups of clients with whose needs, characteristics and objectives the financial instrument is not compatible. **In reference only to the sustainability factors, the intermediaries are not obliged to carry out the identification referred to in this paragraph for the financial instruments that consider the sustainability factors**[50]**.**

4. Intermediaries shall establish the reference market for each financial instrument, even where intermediary producers have not fulfilled their obligations under Article 64 or in cases of instruments produced by entities not falling within the scope of application of Directive 2014/65/EU.

5. When an intermediary acts as both producer and distributor, the assessment of the reference market provided for by Article 64 and by this article is a single assessment.

Article 73

(*Role of corporate governing bodies, of business control functions and of personnel*)

1. The governing body with the function of strategic supervision shall exercise effective control over the governance process adopted by the intermediary to determine the range of financial instruments offered or recommended and the services rendered to the relative reference markets.

2. The conformity control function shall monitor the development and periodic review of the procedures and measures adopted by the intermediary for governing financial instruments, in order to identify the risks of failure to fulfil the obligations provided for in this chapter.

3. The reports of the conformity control function systematically include information about the financial instruments offered or recommended and on the services provided by the intermediary and on the distribution strategy.

4. Intermediaries shall make available to CONSOB, upon request, the reports referred to in Paragraph 3.

5. Intermediaries shall ensure that the personnel has the necessary skills to understand the characteristics and the risks, including any sustainability factors, of the financial instruments which they intend to offer or recommend and services provided as well as the requirements, characteristics and objectives, including any sustainability factors, of the reference market[51]**.**

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words: ", including any sustainability factors."

50 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which added the last clause.

51 Paragraph thus replaced with Resolution no. 22430 of 28.7.2022.

Article 74
(*Exchange of information with intermediary producers and with entities not falling within the scope of application of Directive 2014/65/EU*)

1. Intermediary distributors acquire from intermediary producers the information necessary to understand and know sufficiently well the instruments that they intend to recommend or sell, in order to ensure that they are distributed in accordance with the requirements, characteristics and objectives of the reference market identified pursuant to Article 72.

2. Intermediary distributors shall take all reasonable steps to obtain adequate and reliable information, including from entities not falling within the scope of application of Directive 2014/65/EU, in order to ensure that the instruments are distributed in accordance with the requirements, characteristics and objectives of the reference market. When such information is not available publicly, the distributor shall take all reasonable steps to obtain them from the entity that produces the instrument or his dealer. For the purposes of this paragraph, publicly available information is understood to mean information that is clear, reliable and distributed in compliance with legal obligations, including those provided for in Directive 2003/71/EC or Directive 2004/109/EC.

3. Intermediaries shall comply with the obligations referred to in Paragraph 2 regarding instruments sold on the primary and secondary markets in a proportionate manner, taking into account the degree of availability of information and the complexity of the instrument.

4. Intermediary distributors shall use the information obtained pursuant to this article, as well as those relating to their clients, to identify the market of reference referred to in Article 72 and the distribution strategy of the financial instruments.

5. Intermediary distributors shall provide information on the sale of financial instruments and, if appropriate, information on the review referred to in Article 75 to intermediary producers in support of the review carried out by the producers pursuant to Article 67.

Article 75
(*Review*)

1. Intermediary distributors shall regularly review and update the procedures and the measures adopted for the governance of financial instruments, in order to ensure their continued rigorousness and suitability for the fulfilment of the obligations outlined in this chapter and shall take, if necessary, appropriate measures.

2. Intermediaries shall review regularly the financial instruments offered or recommended and the services provided, taking into account any event that could have a significant effect on the potential risks for the reference market identified pursuant to Article 72.

3. Intermediaries shall assess at least whether the financial instrument or the service remains consistent with the requirements, characteristics **and objectives, including any sustainability factors** of the reference market and whether the planned distribution strategy continues to be appropriate[52].

52 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words "objectives of the

4. Intermediaries shall reconsider the reference market and/or update the procedures and measures adopted for the governance of financial instruments where they detect having wrongly identified the reference market for a specific instrument or service or where the instrument or the service no longer satisfies the conditions of the market of reference, such as when the instrument becomes illiquid or very volatile due to market fluctuations.

Article 76
(*Intermediation chain*)

1. When multiple intermediary distributors collaborate in the distribution of a financial instrument or a service, the intermediary that has the direct relationship with the end client is responsible for the proper fulfilment of the obligations provided for in this chapter.

2. The intermediaries involved in the intermediation chain must in any case:

a) ensure that the significant information relating to the financial instrument are transferred by the entity that produces it, even if it does not fall within the scope of application of Directive 2014/65/EU, to the intermediary final distributor;

b) if the intermediary producer requires information on sales of the instrument in order to fulfil the obligations provided for in this Title, enable the intermediary to collect the required information;

c) fulfil, where applicable, the obligations in their capacity as intermediary producer provided for in Chapter II of this Title, taking into account the service provided.

Article 77
(*Principle of proportionality*)

1. When they decide the range of financial instruments, issued by themselves or by others, and the range of services they intend to recommend or offer to clients, intermediaries shall comply with the obligations laid down in this chapter in an appropriate and proportionate manner, taking into account the nature of the financial instrument, the investment service and the reference market of the instrument.

2. In the fulfilment of the obligations referred to in Paragraph 1, intermediaries shall take particular care if they intend to offer or recommend new financial instruments or in the case of changes to the services provided.

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reference market" with the words: "objectives, including any sustainability factors, of the reference market."

TITLE IX
REQUIREMENTS OF KNOWLEDGE AND COMPETENCE

Article 78[53]
(*Requirements of knowledge and competence*)

1. Members of personnel of intermediaries, including the associated dealers referred to in Article 1, Paragraph 5-*septies*.2, of the Consolidated Law on Finance, shall possess suitable skills and knowledge, as specified by the provisions of this Article, when providing advice to clients on investments or, as defined in Part 4, letter e) of the ESMA/2015/1886 Guidelines, providing clients with information on financial instruments, investment services or ancillary services.

2. In order to provide information and/or advice, members of personnel shall possess at least one of the following requirements of knowledge and experience:

a) registration, including by law, on the register referred to in Article 31 of the Consolidated Law on Finance or have passed the exam for this registration and, in both cases, at least six months' professional experience, in the event of provision of information, or at least nine months' professional experience, in the event of provision of advice;

b) degree, at least a three year course, in economics, law, banking, insurance, finance, technical or scientific subjects issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, and at least six months' professional experience, in the event of provision of information, or at least nine months' professional experience, in the event of provision of advice;

c) degree, at least a three year course, in subjects other than those referred to in Letter *b),* issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, with the addition of a postgraduate degree in economics, law, banking, insurance or finance, or of a certificate of knowledge acquired in the field of economics/finance recognised for regulatory purposes in a jurisdiction of the European Union and at least six months' professional experience, in the event of provision of information, or at least nine months' professional experience, in the event of provision of advice;

d) degree, at least a three year course, in subjects other than those referred to in Letter *b*), issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, and at least nine months' professional experience, in the event of provision of information, or at least fifteen months' professional experience, in the event of provision of advice;

e) upper secondary school diploma and at least one year's professional experience, in the event of provision of information, or at least two years' professional experience, in the event of provision of advice.

53 Article first substituted with Resolution no. 21755 of 10.3.2021 and then amended with Resolution no. 22430 of 28.7.2022 in the terms specified in the following notes.

The professional experience referred to in this paragraph shall be gained in the ten years preceding start of this activity and is carried out on a full-time equivalent basis. At least half of this experience must be gained in the three years preceding the start of activity. Professional experience shall be calculated by adding together the periods of documented professional experience, even gained with multiple intermediaries.

3. Members of personnel shall possess professional experience gained in professional areas pertinent to the subjects identified in Part 17 of the ESMA/2015/1886 Guidelines, for those who provide information, and in professional areas pertinent to the subjects identified in Part 18 of the ESMA/2015/1886 Guidelines, for those who provide advice.

4. Members of personnel, who, as at 2 January 2018, did not possess the degrees indicated under paragraph 2, but at least an upper secondary school diploma, can continue to provide the intermediaries' clients with information or advice if:

a) As at 2 January 2018 had gained documented professional experience, pertinent and adequate to the activity at hand, even gained with multiple intermediaries, of ten years as from 1 November 2007;

b) Where the requirements specified under letter *a)* are not met, as at 2 January 2018 had gained documented professional experience, pertinent and adequate to the activity at hand, even gained with multiple intermediaries, at least of eight years in the period from 1 November 2007 and 2 January 2018. The so accrued experience is supplemented by a period of supervision until ten years are reached.

5. Intermediaries are obliged to:

a) ensure that members of personnel providing information or advice possess the knowledge and competence indicated at the preceding paragraphs;

b) ensure that the members of personnel not fulfilling the knowledge and competence requirements referred to in this Article exclusively work under supervision, in compliance with the provisions of Part 20 of ESMA/2015/1886 Guidelines, for a period of four years at the most;

c) adopt suitable procedures and measures to guarantee application of Parts 14 to 20 of ESMA/2015/1886 Guidelines, differentiating the same according to the specific activity carried out by the personnel, in keeping with Part 13 of the aforementioned guidelines;

d) implement proper procedures to ensure that the professional training and development keep into account the type of service provided, the characteristics of clients and investment products offered, as defined in Part 4, letter i) of the ESMA/2015/1886 Guidelines. Employers can appoint third parties to carry out a review of the development and training requirements of personnel;

e) Keep for at least five years the documentation pertaining to the procedures and measures adopted in accordance with letters *c)* and *d)* and to actual application thereof, as well as to the personnel knowledge and competence, in order to enable evaluation and assessment of the compliance with the requirements set out in this article and ESMA/2015/1886

Guidelines;

f) issue suitable certificates of the periods of experience gained, and of the professional training and development carried out, to members of personnel who request them.

5-*bis*. In reference to the documentation on knowledge and competence requirements, periods of experience gained and professional training and development carried out relating to members of personnel, the five-year period referred to in paragraph 5, letter *e)* runs from the date of termination of the relationship [54/55].

54 Paragraph thus replaced with Resolution no. 22430 of 28.7.2022.

55 Article 2, paragraph 1 of Resolution no. 21755 of 10.3.2021 provides that: "1. The amendments made by this Resolution to Article 78, paragraph 2, of the regulation establishing the provisions for implementation of Legislative Decree no. 58 of February 24, 1998 on intermediaries, adopted with Resolution no. 20307 of 15 February 2018, shall apply to the members of personnel who start to operate after the entry into force of this Resolution. The provisions referred to in Articles 79, paragraphs 2 to 11, and 80 of the regulation establishing the provisions for implementation of Legislative Decree no. 58 of February 24, 1998 on intermediaries adopted with Resolution no. 20307 of 15 February 2018, version preceding the entry into force of this Resolution, shall continue to apply to the members of personnel who started to operate before the entry into force of this Resolution. The aforementioned articles are given below: "**Art. 79 (*Requirements for providing information*)** - *[...omissis...]* **2.** In order to provide information, the personnel referred to in Article 78 shall possess at least one of the following requirements of knowledge and experience: *a*) registration, including by law, on the register referred to in Article 31 of the Consolidated Law on Finance or have passed the exam for this registration and, in both cases, at least six months' professional experience; *b*) degree, at least a three year course, in economics, law, banking, insurance or finance, issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, and at least six months' professional experience; *c*) degree, at least a three year course, in subjects other than those referred to in Letter *b),* issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, with the addition of a postgraduate degree in economics, law, banking, insurance or finance, or of a certificate of knowledge acquired in the field of economics/finance recognised for regulatory purposes in a jurisdiction of the European Union and at least six months' professional experience; *d*) degree, at least a three year course, in subjects other than those referred to in Letter *b*), issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, and at least 1 year of professional experience; *e*) upper secondary school diploma and at least two years' professional experience. **3.** The professional experience required pursuant to Paragraph 2 must be gained in professional areas pertinent to the subjects identified in Part 17 of the ESMA/2015/1886 Guidelines. **4.** In the cases referred to in Letters *d*) and *e*) of Paragraph 2, the professional experience required can be halved if the person concerned possesses a certificate of knowledge acquired in the field of economics/finance, recognised for regulatory purposes in a jurisdiction of the European Union or certifies having acquired, by means of specific vocational training, theoretical and practical knowledge on the subjects identified in Part 17 of the ESMA/2015/1886 Guidelines. **5.** The vocational training: *a*) must be relevant and appropriate to the activities to be performed and, in particular, to brokerage contracts; *b*) must be aimed at achieving suitable levels of up-to-date theoretical knowledge, technical/operational skills and competence and effective and proper communication with clients; *c*) consists of participating, in the twelve months preceding the start of activity or during the supervision period provided for by Article 81, Paragraph 1, Letter c), in courses lasting no fewer than sixty hours, undertaken in the classroom or under the equivalent conditions referred to in Paragraph 7. **6.** Classroom courses must be of between three hours and eight hours per day and must involve an adequate number of participants to ensure the effectiveness of learning, taking into account the nature and the characteristics of the training provider and the training subject matter. 7. For the purposes of this Regulation, training courses undertaken using exclusively the following methods shall be deemed equivalent to classroom training courses: video conferences, webinars and e-learning. The entities that provide distance training courses shall ensure the identification of the participants, the actual interactivity of the educational activity, the traceability of the times of delivery and use of the training and shall ensure, including via adequate controls, the effective and continuous presence of participants. **8.** The professional training courses referred to in Paragraphs 6 and 7 shall be concluded by sitting a test of the acquired knowledge; participants who pass this test will be issued with a certificate stating the name of the training provider and the names of the teachers, the number of hours of participation on the course, the subjects taught and the positive result of the participant. **9.** The test: *a*) must be undertaken exclusively in the classroom and shall consist of questions that, in number and complexity, satisfy the criteria of suitability, relevance and proportionality to the content and the duration of the training or refresher course; *b*) is considered to have been passed by candidates that have correctly answered at least sixty per cent (60%) of the questions. **10.** The vocational training courses can be organised directly by the employer, as well as by a different intermediary referred to in Article 78, or by an specially constituted entity, as long as they belong to the same group as the employer. If they do not provide the training directly, they can use: *a*) trade associations of insurance, credit and financial intermediaries, established for at least two years; *b*) entities belonging to a university recognised by the Italian Ministry of Education, University and Research; *c*) entities holding UNI EN ISO 9001:2008 Sector EA37, UNI ISO 29990:11, UNI 9001:2015 quality certification or other accreditation systems recognised at European or international level; *d*) the National Councils of Professional

Article 79
(*Requirements for providing information*)

...omissis...[56]

Article 80
(*Requirements for providing advice)*

...omissis...[57]

Article 81
(*Other requirements*)

...omissis...[58]

Article 82
(*Final provisions*)

...omissis...[59]

Orders supervised by the Italian Ministry of Justice, which have proven training experience in the subjects referred to in Parts 17 and 18 of the ESMA/2015/1886 Guidelines. **11.** Work experience demonstrating the ability to provide information to clients shall be gained in the ten years preceding the start of this activity. At least half of the work experience must be gained in the three years preceding the start of activity. Professional experience shall be calculated by adding together the periods of documented professional experience, even gained with multiple intermediaries". "**Art. 80** ***(Requirements for providing advice)*** - **1.** In order to provide information, the personnel referred to in Article 78 shall possess at least one of the following requirements of knowledge and experience: *a*) registration, including by law, on the register referred to in Article 31 of the Consolidated Law on Finance or have passed the exam for this registration and, in both cases, at least twelve months of professional experience; *b*) degree, at least a three year course, in economics, law, banking, insurance or finance, issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, and at least twelve months' professional experience; *c*) degree, at least a three year course, in subjects other than those referred to in Letter *b*), issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, with the addition of a postgraduate degree in economics, law, banking, insurance or finance, or of a certificate of knowledge acquired in the field of economics/finance recognised for regulatory purposes in a jurisdiction of the European Union and at least twelve months' professional experience; *d*) degree, at least a three year course, in subjects other than those referred to in Letter *b*), issued by a university recognised by the Italian Ministry of Education, University and Research, or equivalent foreign academic qualification, and at least two years' professional experience; *e*) upper secondary school diploma and at least four years' professional experience. **2.** The professional experience required pursuant to the previous paragraph must be gained in professional areas pertinent to the subjects identified in Part 18 of the ESMA/2015/1886 Guidelines. **3.** In the cases referred to in Letters *a*), *b*), *d*) and *e*), the professional experience required can be halved if the person concerned possesses a certificate of knowledge acquired in the field of economics/finance, recognised for regulatory purposes in a jurisdiction of the European Union; in the cases referred to in Letters *d*) and *e*), the period of required professional experience can be halved if the person in question certifies having acquired, by means of specific vocational training, theoretical and practical knowledge on the subjects identified in Part 18 of the ESMA/2015/1886 Guidelines. The requirements of specific vocational training referred to in Paragraphs 5, 6, 7, 8, 9 and 10 of Article 79 shall apply. **4.** Work experience demonstrating the ability to provide the advice to clients shall be calculated according to the criteria referred to in Article 79, Paragraph 11.".

56 Article repealed with Resolution no. 21755 of 10.3.2021.

57 Article repealed with Resolution no. 21755 of 10.3.2021.

58 Article repealed with Resolution no. 21755 of 10.3.2021.

59 Article repealed with Resolution no. 21755 of 10.3.2021.

PART III
STOCKBROKERS

Article 83
(*Stockbrokers*)

1. Stockbrokers are required to comply with this Regulation.

Article 84
(*Accounting control*)

1. The party responsible for statutory audits shall verify:

a) that the organisation and internal procedures ensure compliance with the reporting obligations and registration of the orders and transactions carried out on behalf of clients;

b) at least quarterly, the consistency of the individual positions of the clients and the separation of their assets from stockbroker assets, including on the basis of the statements issued by sub-custodians.

2. Articles 155, Paragraph 2 and 156, Paragraph 4 of the Consolidated Law on Finance shall apply, insofar as compatible.

Article 85
(*Awarding and revocation of the assignment*)

1. The assignment awarded by the stockbroker shall last for nine financial years and cannot be renewed or re-awarded for at least three years after the end of the previous assignment.

2. The stockbroker shall revoke the assignment in the event of just cause and shall also award the assignment of statutory auditor to another party. Divergence of opinion on accounting assessment or audit procedures does not constitute just cause for revocation. The party assigned to perform the statutory audit whose assignment has been revoked shall continue to perform the accounting controls until the newly awarded assignment comes into effect.

Article 86
(*Notices to the supervisory authorities*)

1. The stockbroker shall notify CONSOB and the Bank of Italy of the awarding of the assignment and the content of the agreement, as well as the reasons for any revocation.

2. The party responsible for statutory audits shall, without undue delay:

a) send the report on the financial statements to CONSOB and to the Bank of Italy;

b) notify these same authorities of any irregularities detected in the course of the checks foreseen by Article 84, Paragraph 1.

BOOK IV

PROCEDURES, INCLUDING INTERNAL CONTROL, FOR THE FAIR AND TRANSPARENT PROVISION OF SERVICES, STANDARDS COMPLIANCE CONTROL, HANDLING OF COMPLAINTS, PERSONAL TRANSACTIONS, MANAGEMENT OF CONFLICTS OF INTEREST, PRESERVATION OF RECORDINGS

PART I
PRELIMINARY PROVISIONS

Article 87
(*Definitions*)

1. In this Book, "intermediaries" are understood to mean: Italian investment firms ("SIM" in the Italian acronym); third country firms other than banks; Italian banks, limited to the provision of investment services and activities; third country banks limited to the provision of investment services and activities. "Intermediaries" are also understood to mean stockbrokers, financial intermediaries registered on the register provided for by Article 106 of the Consolidated Banking Law, the company Poste Italiane - Divisione Servizi di Banco Posta authorised pursuant to Article 2 of Presidential Decree 144 of March 14, 2001, limited to the provision of investment services and activities for which they are authorised;

PART II
INTERNAL PROCEDURES, STANDARDS COMPLIANCE CONTROL, HANDLING OF COMPLAINTS, PERSONAL TRANSACTIONS

Article 88
(*Internal procedures*)

1. Intermediaries shall adopt, apply and maintain suitable procedures to ensure fulfilment of the obligations of fairness and transparency in the provision of each investment service or activity.

2. For the purposes of Para. 1, the intermediaries referred to in Article 87 shall apply Article 21, Paragraphs 1, 2 and 5 of Regulation (EU) 2017/565.

Article 89
(*Compliance control*)

1. In its methods of performing the compliance control function, the intermediaries referred to in Article 87 shall apply Article 22, Paragraphs 1 and 2 of Regulation (EU) 2017/565.

Article 90
(*Handling complaints*)

1. The intermediaries referred to in Article 87 shall apply Article 26 of Regulation (EU) 2017/565.

Article 91
(*Personal transactions*)

1. The intermediaries referred to in Article 87 shall apply Articles 28 and 29 of Regulation (EU) 2017/565.

PART III
CONFLICTS OF INTEREST

Article 92
(*General principles*)

1. Intermediaries shall maintain and apply effective organisational and administrative provisions in order to adopt all reasonable measures to prevent conflicts of interest from negatively affecting the interests of their clients.

2. For the purposes of Article 21, Paragraph 1-*bis*, Letter *c*) of the Consolidated Law on Finance, information shall be provided on a durable medium and display a degree of detail that is sufficient to enable the customer, given its characteristics, to make an informed decision on the service within the context of which the conflict of interest arises.

3. The intermediaries referred to in Article 87 shall apply Articles 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43 of Regulation (EU) 2017/565.

Article 93
(*Systems of remuneration and personnel incentives and assessment*)

1. In the performance of investment services, intermediaries must avoid rewarding and encouraging personnel in ways that are incompatible with the duty to act in the best interest of the clients.

2. For the purposes of Paragraph 1, intermediaries shall not adopt provisions on remuneration, sales targets or other that could encourage personnel to recommend to retail clients a particular financial instrument, where a different instrument could be offered that is more suited to the needs of the client.

3. In fulfilling the obligations of this article, the intermediaries referred to in Article 87 shall apply Article 27, Paragraphs 1, 2 and 4 of Regulation (EU) 2017/565.

4. Intermediaries shall avoid assessing the performance of their personnel in ways that are incompatible with the duty to act in the best interest of the clients.

5. This Article shall also apply to EU management companies, EU AIFMs, EU investment firms and banks with branches in Italy, limited to the provision of investment services.

PART IV
PRESERVATION OF RECORDS

Article 94
(*Preservation of records*)

1. For all services provided and for all activities and transactions performed, intermediaries shall keep records sufficient to allow CONSOB to verify compliance with the rules on investment services and activities and ancillary services and, in particular, the fulfilment of obligations with regard to clients or potential clients.

2. The records preserved in accordance with the provisions of this Part are made available to interested clients on request and are preserved for five years or, if requested by CONSOB, for up to seven years.

3. The intermediaries referred to in Article 87 shall apply Articles 72, 73, 74, 75 and 76 of Regulation (EU) 2017/565.

4. The provisions of this Part shall also apply to Italian branches of EU investment firms and EU banks.

Article 95
(*Recording of telephone conversations and electronic communication*)

1. The records referred to in Article 94 include the recording of telephone conversations or electronic communications regarding transactions concluded in the provision of services referred to in Article 1, Paragraph 5, Letters *a*), *b*), *c*), *c-bis*), *d*), *e*) and *f*) of the Consolidated Law on Finance.

2. This article shall also apply to telephone conversations and electronic communications made to conclude transactions within the framework of the provision of the services referred to in Paragraph 1 that have not led to the actual conclusion of transactions or to the provision of services.

3. For the purposes of Paragraphs 1 and 2, intermediaries shall take all reasonable measures to record telephone conversations and electronic communications carried out, transmitted or received through equipment supplied by them to an employee or associate or through equipment whose use they have authorised. Intermediaries shall take all reasonable measures to prevent employees or associates from carrying out, transmitting or receiving on private equipment telephone conversations and electronic communications that they are unable to record or copy.

4. Intermediaries shall inform clients that telephone conversations or communications between them that lead to or may lead to transactions will be recorded. This notice may be sent only once, prior to the provision of investment services.

5. Intermediaries shall refrain from providing order reception, transmission and execution services to clients via telephone if they have not received in advance the notice referred to in Paragraph 4.

6. Orders can also be sent by customers through channels other than by telephone, provided that a durable medium is used, such as post, fax, email or other documents confirming orders made by clients in the course of meetings. The content of the conversations that take place in the presence

of the client can be recorded by means of minutes or written notes. These orders shall be considered equivalent to the orders received by telephone.

BOOK V
PROVISION OF COLLECTIVE INVESTMENT SCHEMES AND UCI MARKETING SERVICES

PART I
PRELIMINARY PROVISIONS

Article 96
(*Definitions*)

1. In Books V and VI the following are understood as indicated:

   a) "collective investment scheme": the service as defined by Article 1, Paragraph 1, Letter *n*) of the Consolidated Law on Finance;

   b) "Regulation (EU) 231/2013": Commission Delegated Regulation (EU) 231/2013 of December 19, 2012;

   c) "operators": asset management companies, SICAVs (open-end investment companies) and SICAFs (close-end investment companies) that manage their own assets directly;

2. Where not otherwise specified, for the purposes of Books V and VI, the definitions contained in the Consolidated Law on Finance shall apply.

PART II
TRANSPARENCY AND FAIRNESS IN THE PROVISION OF COLLECTIVE INVESTMENT SCHEMES

TITLE I
PROVISION OF THE SERVICE

Article 97
(*General rules of conduct*)

1. In the provision of collective investment schemes, operators shall:

   a) operate with diligence, fairness and transparency in the interest of the participants of the UCIs and of the integrity of the markets;

   b) ensure that the management is performed independently, in compliance with the objectives of the investment policy and the specific risks of the UCI, as indicated in the offer documents or, in their absence, in the management regulations or statute of the UCI;

c) acquire knowledge and adequate understanding of the conditions of marketability of financial instruments, assets and of the other valuables in which it is possible to invest the assets managed, including on the basis of fair, transparent and suitable evaluation systems;

d) ensure equal treatment for all investors of the same UCI and shall refrain from any action that might prejudice the interests of a UCI to the benefit of another UCI or a client.

2. As an exception to Paragraph 1, Letter *d*) and limited to the management of Italian reserved Alternative Investment Funds (AIFs), operators can use preferential treatment under the terms of the provisions of the AIF regulations or documents of incorporation.

3. Operators shall also apply Articles 17, Paragraph 2, and 18, Paragraph 2, 5 and 6 of Regulation (EU) 231/2013[60].

Article 98
(*Provision of collective investment schemes*)

1. Operators shall apply Article 18, Paragraphs 1, 3, 4, 5 and 6 of Regulation (EU) 231/2013. Limited to the management of UCITS and for each UCITS managed, keeping into account the sustainability risks and the negative effects of the investment decisions on the sustainability factors the operators have taken into account pursuant to Article 4, paragraphs 1, letter *a)*, 3 and 4 of Regulation (EU) 2019/2088, they shall[61]:

a) acquire reliable and up-to-date information necessary for formulating provisions and performing analysis;

b) define the consequent general investment strategies;

c) before arranging the execution of operations, perform - taking into account the characteristics of the potential investment - qualitative and quantitative analysis of the approaches of the contribution of the investment to the risk-return profiles and the liquidity of the UCI in question.

2. Operators shall preserve, for each UCI they manage, documents relating to the provision of the collective investment scheme, which must include description of the analysis undertaken, the strategies discussed and the checks carried out.

60 Paragraph thus replaced with Resolution no. 22430 of 28.7.2022.

61 Introductory part thus replaced with Resolution no. 22430 of 28.7.2022.

TITLE II
BEST EXECUTION

Chapter I
Execution of orders on behalf of UCIs

Article 99
(*Measures for the execution of orders involving financial instruments on the terms most favourable to the UCI*)

1. Article 27, Paragraphs 1, 2 and 3 of Regulation (EU) 231/2013 shall apply to operators in the execution of orders involving financial instruments.

2. Limited to the management of UCITS, in the event that a SICAV has appointed an asset management company to manage its assets, this company must obtain the prior consent of the SICAV with regard to the order execution strategy adopted pursuant to this article.

3. Limited to the management of UCITS, asset management companies and SICAVs shall make available to investors appropriate information on the order execution strategy adopted pursuant to Paragraph 1 and on any significant change to this strategy. These parties shall provide appropriate information to investors on the order execution strategy adopted pursuant to Paragraph 1.

Article 100
(*Monitoring and updating execution measures and strategies*)

1. In monitoring and updating the execution measures and strategies, operators shall apply Article 27, Paragraphs 4, 5 and 6 of Regulation (EU) 231/2013.

Chapter II
Transmission of orders on behalf of UCIs

Article 101
(*Measures for the execution of orders involving financial instruments on the terms most favourable to the UCI*)

1. In the provision of collective investment schemes, operators shall apply Article 28, Paragraphs 1, 2, 3 and 4 of Regulation (EU) 231/2013.

TITLE III
MANAGING UCI ORDERS

Article 102
(*General principles*)

1. In order management of orders, operators shall apply Article 25 of Regulation (EU) 231/2013.

Article 103
(*Aggregation and allocation*)

1. In the aggregation and allocation of orders, operators shall apply Article 29 of Regulation (EU) 231/2013.

TITLE IV
INCENTIVES

Article 104
(*Incentives concerning UCIs*)

1. Article 24 of Regulation (EU) 231/2013 on incentives shall apply to operators.

2. Limited to the management and administration of UCITS, Paragraph 1 shall apply to operators.

TITLE V
REPORTS AND RECORDS

Article 105
(*Information on transactions performed*)

1. Operators shall comply with the obligations of disclosure on the execution of orders of subscription and redemption with regard to investors, as provided for by Article 26, Paragraphs 1, 2 and 4 of Regulation (EU) 231/2013. Limited to the management of UCITS, in the event that the management company and SICAV receive confirmation of execution from a third party, this must be sent to the investor at the latest on the first business day after receiving this third party confirmation.

2. Operators shall apply Article 26, Paragraph 3 of Regulation (EU) 231/2013. In the case of UCITS management, confirmation of order execution also includes the following information:

a) the date and the time of reception of means of payment;

b) the nature of the order (subscription, redemption);

c) the number of attributed units or shares in the UCI;

d) the unit value at which the units or shares have been subscribed or redeemed and the day to which this value refers;

e) the total sum of the commissions and fees applied and, if the investor so requires, the breakdown of these commissions and costs into individual entries;

f) the liability of the investor in terms of transaction regulation, including the deadline for payment or delivery, as well as the details of the relevant account, where the investor has not already been notified of this liability and these details.

3. In the case of orders that are executed periodically on behalf of an investor, limited to the management of UCITS, asset management companies SICAVs, as an alternative to that provided for

by Article 26, Paragraph 1 of Regulation (EU) 231/2013, can provide the investor, at least every six months, with the information referred to in Paragraph 2.

Article 106
(*Records of telephone and electronic orders*)

1. Operators shall record on magnetic tape or other equivalent support any orders made by investors by telephone and shall keep evidence of orders submitted by investors electronically.

PART III
TRANSPARENCY AND FAIRNESS IN UCI MARKETING

Article 107
(*Marketing own UCIs*)

1. Article 35, 36, 42, 43, 51, Paragraphs 1, 2 and 4, Article 62, Paragraph 1, Letter *b*) and Articles 71, 72, 73, 75, 77 and 78 shall apply to operators who market the units or shares in their own UCIs. For the purposes of this paragraph, Articles 68 and 69 of Regulation (EU) 2017/565 shall not apply[62].

2. Articles 52 and 53 shall apply to the marketing of units or shares in own UCITS by asset management companies and SICAVs.

3. Paragraphs 3 and 4 of the same article shall apply to operators who market the units or shares in own UCIs towards the parties referred to in Article 61, Paragraphs 1 and 2.

4. There is no prejudice to the option for the parties referred to in Article 61, Paragraphs 1 and 2 to ask to be treated, in general or for an individual transaction, as a professional client or, expressly, as a retail client.

Article 108
(*EU management companies and EU AIFMs with branches in Italy*)

1. The provisions of this Part and of Part II shall also apply to EU management companies and EU AIFMS that provide, via the establishment of a branch, collective investment schemes.

Article 109
(*Marketing third party UCIs*)

1. The savings management companies that carry out the marketing of units or shares in third party UCIs comply with the principles and general rules of the Consolidated Law on Finance on the distribution of financial instruments.

2. Articles 35, 36, 37, 42, 43, 51, Paragraphs 1, 2 and 4, Articles 52, 53, 60, 62, Paragraph 1, Letter *b*) and Articles 71, 72, 73, 74, 75, 76, 77, 78 and 94 shall apply to asset management companies that market the units or shares in third party UCIs. For the purposes of this paragraph, Articles 68

62 Paragraph thus amended with Resolution no. 21755 of 10.3.2021, which replaced the words: ", 78, 79, 81 and 82" with the words "and 78".

and 69 of Regulation (EU) 2017/565 shall not apply[63].

BOOK VI

PROCEDURES, INCLUDING INTERNAL CONTROL, FOR THE FAIR AND TRANSPARENT PROVISION OF SERVICES BY OPERATORS, STANDARDS COMPLIANCE CONTROL, HANDLING OF COMPLAINTS, PERSONAL TRANSACTIONS, MANAGEMENT OF CONFLICTS OF INTEREST, PRESERVATION OF RECORDINGS

PART I
GENERAL PROVISIONS

TITLE I
GENERAL PROVISIONS

Article 110
(*Scope of application*)

1. In the provision of collective investment schemes, as well as the provision of investment services and activities, operators shall apply Articles 88 and 90, as well as the provisions of this Book.

2. Operators that carry out investment research shall also apply Articles 36 and 37 of Regulation (EU) 2017/565.

3. In the provision of investment services and activities, operators shall apply Part III and Part IV of Book IV.

4. The provisions of Part IV of Book IV and of Title II of Part II of this book shall apply:

a) the marketing by asset management companies, even door-to-door or at a distance, of units or shares in third party UCIs;

b) to door-to-door or distance selling by asset management companies of their own portfolio management and investment advice services.

5. Articles 115, 116, 117 and 118 shall apply to EU AIFMs that perform collective investment schemes via the establishment of branches in Italy.

Article 111
(*Definitions*)

1. For the purposes of this Book, the following are understood as indicated:

63 Paragraph thus amended with Resolution no. 21755 of 10.3.2021, which, after the words : "78" cancelled the words: ", 79, 81, 82".

a) "services": investment services and activities, ancillary services and collective investment schemes;

b) "risk management system": the system governed by Article 38 of Regulation (EU) 231/2013 and the Bank of Italy regulation on collective investment schemes;

c) "control systems": set of rules, functions, structures, resources, processes and procedures intended to, among other things, verify the implementation of business strategies and policies, ensure the efficiency and effectiveness of business processes, maintain the reliability and security of business information and IT procedures and identify, measure or assess, prevent or mitigate and send notification of risks, such as market, credit, operational and reputation risks;

d) "significant party": the party indicated in Article 2, Paragraph 1, Letter *d*) of Regulation (EU) 2017/565, including legal persons;

e) "below-threshold operators": the operators indicated in Article 35-*undecies* of the Consolidated Law on Finance.

TITLE II
STRATEGIES FOR EXERCISING THE RIGHT TO VOTE

Article 112
(*Strategies for exercising the right to vote*)

1. The strategies adopted by operators for exercising voting rights are governed by Article 37 of Regulation (EU) 231/2013.

2. The rules referred to in Paragraph 1 shall not apply to below threshold operators.

PART II
FUNCTION OF CONTROL OF COMPLIANCE WITH STANDARDS, PERSONAL TRANSACTIONS, CONFLICTS OF INTEREST, RELATIONS WITH DISTRIBUTORS AND ADVISORS

TITLE I
COMPLIANCE CONTROL FUNCTION

Article 113
(*Methods of exercising the compliance control function*)

1. The methods of exercising the compliance control function are governed by Article 61 of Regulation (EU) 231/2013. These rules apply, with the necessary adaptations, including with reference to compliance with the provisions on UCITS and on investment services and activities.

TITLE II

PERSONAL TRANSACTIONS AND CONFLICTS OF INTEREST

Article 114
(*Personal transactions*)

1. Personal transactions are governed by Article 63 of Regulation (EU) 231/2013. For UCITS operators, the reference included in Article 63 of Regulation (EU) 231/2013 to Directive 2011/61/EU is understood to refer to the regulations on UCITS.

Article 115
(*Management of conflicts of interest*)

1. Operators shall consider, among the circumstances that may give rise to a conflict of interest, situations, even emerging during the constitution of the UCI, that give rise to conflict between:

a) the interests of the operator, including his significant parties or any person or entity with close ties to the operator or a significant party, and the interests of the UCI managed by the operator or the interests of the participants in this UCI;

b) the interests of the UCI, or its participants, and the interests of other UCIs or their respective participants;

c) the interests of the UCI, or its participants, and the interests of another client of the operator;

d) the interests of two or more clients of the operator.

2. The types of conflicts of interest which may arise in the management of UCIs shall be governed by Article 30 of Regulation (EU) 231/2013.

3. The conflicts of interest referred to in Paragraph 1 are:

a) identified;

b) managed by means of suitable organisational measures to prevent these conflicts from seriously harming one or more UCIs and their clients.

4. Operators shall keep separate tasks and responsibilities that can be considered mutually incompatible or that appear capable of creating systematic conflicts of interest.

5. In the case in which the conflicts of interest cannot be managed via effective organisational measures, Article 34 of (EU) Regulation 231/2013 shall be applied in accordance with the policy on managing conflicts of interest governed by Article 117.

Article 116
(*Disclosure of conflicts of interest by UCITS operators*)

1. UCITS operators shall make available periodically to clients, via adequate durable medium, an informative report on the situations of conflicts of interest as referred to in Article 115, Para. 5,

describing the decisions taken by the governing body or competent functions and the relative justification

Article 117
(*Policy, procedures and measures for the prevention and management of conflicts of interest*)

1. The policy for managing conflicts of interest is governed by Article 31 of Regulation (EU) 231/2013.

2. The procedures and measures for the prevention, identification and management of conflicts of interest are governed by Article 33 of Regulation (EU) 231/2013. Article 33, Paragraph 2 of Regulation (EU) 231/2013 shall apply to below threshold operators.

Article 118
(*Monitoring conflicts of interest*)

1. The monitoring of conflicts of interest is governed by Article 35 of Regulation (EU) 231/2013.

TITLE III
RELATIONS WITH DISTRIBUTORS AND ADVISORS

Article 119
(*Procedures in relations with distributors and advisors*)

1. The procedures established by Article 88 specifically govern the relations between distributors and advisors for the purposes of the fair and transparent provision of collective investment schemes.

PART III
PRESERVATION OF RECORDS

Article 120
(*Obligations on the preservation of records*)

1. The obligations on the preservation of records are governed by Article 66 of Regulation (EU) 231/2013.

Article 121
(*Electronic data processing*)

1. Electronic data processing is governed by Article 58 of Regulation (EU) 231/2013.

Article 122
(*Recording orders and portfolio transactions*)

1. The recording of orders received and portfolio transactions performed is governed by Article 64 of Regulation (EU) 231/2013. UCITS operators shall record the following additional information:

a) the denomination currency of the financial instrument;

b) indication of the ISIN code of the financial instrument or, in its absence, the denomination of the instrument or, in the case of derivative contracts, the characteristics of the contract;

c) the unit price of the financial instrument excluding commissions and, where applicable, accrued interest; in the case of debt instruments, the price can be expressed in monetary terms or in percentage terms;

d) the total price given by the product of the unit price and the quantity.

Article 123
(*Recording subscription and redemption orders*)

1. The recording of subscription and redemption orders is governed by Article 65 of Regulation (EU) 231/2013. UCITS operators shall record the following additional information:

a) whether it is an order subject to the right of withdrawal;

b) the name or other identifier of the client, highlighting the parties employed by the operator or, in the case of orders received through an intermediary, the name or other identifier of this intermediary;

c) whether it is an order received through a financial advisor authorised for door-to-door selling, the identifiers of the financial advisor authorised for door-to-door selling, of the operator that has received the order or an identification code of the financial advisor authorised for door-to-door selling and of the operator that has received the order;

d) the date on which the order of subscription or redemption was issued and, in the case of direct marketing, the time of acquisition of the order;

e) the date and the time the order was received by the operator;

f) the type of the order (subscription, redemption, inherent to subscription or disinvestment plans, to services linked to the participation in the UCITS, class or section, to extraordinary transactions relating to the UCITS, class or section, etc.);

g) the value date of the subscription or redemption order, or the day of the value paid to the means of payment and the means of payment used;

h) the date of regulation (the day following the day of execution), when the liquidity is credited to the accounts of the UCITS (for subscriptions) or withdrawn (for disinvestments).

DOOR-TO-DOOR SELLING/DISTANCE PROMOTION AND PLACEMENT

PART I
DOOR-TO-DOOR SELLING

Article 124
(*Door-to-door selling*)

1. In the door-to-door selling of financial instruments, investment services and activities, structured deposits and financial products governed by Article 30 of the Consolidated Law on Finance, EU investment firms, third country firms other than banks, banks, financial intermediaries registered on the register provided for by Article 106 of the Consolidated Banking Law, asset management companies, EU management companies, SICAVs, SICAFs, EU AIFMs and Poste Italiane - Divisione Servizi di Banco Posta authorised pursuant to Article 2 of Presidential Decree 144 of March 14, 2001, in direct relations with the client, shall use financial advisors qualified for door-to-door selling in order to fulfil the provisions referred to in Book III and Article 93.

2. In door-to-door selling of units or shares in UCIs, asset management companies, EU management companies, SICAVs, SICAFs and EU AIFMs comply with the limits and forecasts referred to in Articles 107 and 109.

3. The provisions of Paragraph 1 shall also apply to the door-to-door selling of ancillary services and of pension funds opened by Italian investment firms, EU investment firms and third country firms other than banks.

PART II
DISTANCE PROMOTION AND PLACEMENT

Article 125
(*Parties*)

1. Italian investment firms, EU investment firms with branches in Italy, third country firms other than banks, Italian banks and third country banks, EU banks with branches in Italy and the company Poste Italiane - Divisione Servizi di Banco Posta authorised pursuant to Article 2 of the Presidential Decree 144 of March 14, 2001, authorised to perform of the service referred to in Article 1, Paragraph 5, Letters *c*) or *c-bis*) of the Consolidated Law on Finance, as well as in the cases and under the conditions established pursuant to Article 18, Paragraph 3 of the Consolidated Law on Finance, the financial intermediaries registered on the register provided for by Article 106 of the Consolidated Banking Law, authorised to provide the same service, may promote and place by means of distance communication techniques financial products and investment services and activities provided by other intermediaries.

2. Italian investment firms, EU investment firms with branches in Italy, third country firms other than banks, Italian banks and third country banks may also promote and place by means of distance communication techniques the products and services referred to in Article 124, Paragraph 3.

3. Asset management companies, EU management companies, SICAVs, SICAFs and EU AIFMs may promote and place by means of distance communication techniques units or shares in UCIs in

conformity with the provisions of Articles 107 and 109.

4. Italian investment firms, Italian banks authorised to provide investment services, financial intermediaries registered on the register provided for in Article 106 of the Consolidated Banking Law authorised to provide the service referred to in Article 1, Para. 5, Letter a) of the Consolidated Law on Finance, limited to derivative financial instruments, in the cases and under the conditions established pursuant to Article 18, Para. 3 of the Consolidated Law on Finance, asset management companies, EU management companies, EU AIFMs, stockbrokers, the company Poste Italiane - Divisione Servizi di Banco Posta authorised pursuant to Article 2 of the Presidential Decree 144 of March 14, 2001, third country firms and EU investment firms and banks with branches in Italy in any case authorised to provide investment service and activities in Italy may promote and place by means of distance communication techniques their investment services and activities.

5. Activities performed with regard to the professional clients referred to in Article 35, Paragraph 1, Letter *d*) do not constitute promotion and placement by means of distance communication .

6. The offer of own financial instruments to members of the Board of Directors or the Management Board, employees and associates who do not report directly to the issuer, to the parent company or its subsidiaries, carried out by means of media referable to the issuer, or to companies belonging to the same group, does not constitute promotion and placement by means of distance communication techniques, under the condition that the relative access is guaranteed exclusively to these parties by means of suitable security measures.

Article 126
(*Limits to the use of distance communication techniques*)

1. Promotion and placement by means of distance communication techniques may not be carried out and, if undertaken, must be stopped immediately, towards clients who state explicitly their opposition to their undertaking or continuation. To this end, clients are provided with express indication of the option of opposing being sent such promotion and placement notices in the future.

Article 127
(*Performance*)

1. In promoting and placement by means of distance communication techniques, the bodies referred to in Article 125 shall comply with the provisions of Book III and Book IV.

PART III
MARKETING OTHER PARTIES' INVESTMENT SERVICES

Article 128
(*Door-to-door selling and distance promotion and placement of other parties' investment services*)

1. In the door-to-door selling and distance promotion and placement of other parties' investment services, the intermediaries in question are organised so as to ensure compliance with the rules of conduct applicable to the marketed service.

2. In the door-to-door selling and distance promotion and placement of other parties' investment

services, the intermediary shall be liable for the completeness and accuracy of the information sent to the party that provides the service. The intermediary that provides the service is liable for the performance of the service on the basis of the information sent.

BOOK VIII

OFFER ADVICE ON STRUCTURED DEPOSITS AND FINANCIAL PRODUCTS OTHER THAN FINANCIAL INSTRUMENTS ISSUED BY BANKS

Article 129

(*Regulations applicable to structured deposits*)

1. The intermediaries referred to in Article 35, Paragraph 1, Letter *b*) that offer or recommend structured deposits, including by means of distance communication techniques, shall comply with the provisions referred to in Articles 36, 37, 40**, 40-*bis*,** 41, 42, 43, 44, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, as well as the provisions referred to in Titles VIII AND IX of Book III and Articles 124 and 126[64].

2. The intermediaries referred to in Article 87 that offer or recommend structured deposits, including by means of distance communication techniques, shall comply with the provisions of Book IV.

3. This article also applies to banks not authorised to provide investment services and activities that offer or recommend structured deposits.

Article 130

(*Regulations applicable to financial products other than financial instruments issued by banks*)

1. The intermediaries referred to in Article 35, Paragraph 1, Letter *b*) that offer or recommend financial products other than financial instruments issued by banks, including by means of distance communication techniques, shall comply with the provisions referred to in Articles 36, 37, 40**, 40-*bis***, 41, 42, 44, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, as well as the provisions referred to in Titles VIII AND IX of Book III and Articles 124 and 126[65].

2. The intermediaries referred to in Article 87 that offer or recommend financial products other than financial instruments issued by banks, including by means of distance communication techniques, shall comply with the provisions of Book IV.

3. This article also applies to banks not authorised to provide investment services and activities that offer or recommend financial products other than financial instruments.

BOOK IX[66]

64 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "Articles 36, 37, 40," added the words: ", 40-bis."

65 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "Articles 36, 37, 40," added the words: ", 40-bis."

66 Book first replaced with Resolution no. 21466 of 29.7.2020, and later amended with Resolutions no. 21755 of

INFORMATION OBLIGATIONS AND RULES OF CONDUCT FOR THE DISTRIBUTION OF INSURANCE-BASED INVESTMENT PRODUCTS

PART I
PRELIMINARY PROVISIONS

Article 131
(*Definitions*)

1. In this Book, the following are understood as indicated:

a) «Regulation (EU) 2017/2358»: Commission Delegated Regulation (EU) 2017/2358 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to product oversight and governance requirements for insurance undertakings and insurance distributors;

b) «Regulation (EU) 2017/2359»: Commission Delegated Regulation of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products;

c) «Regulation (EU) 2017/565»: Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organizational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;

d) «Private Insurance Code»: Legislative Decree 209 of 7 September 2005;

e) «Insurance-based investment product»: a product pursuant to Article 1, Paragraph 1, Letter *w-bis.3)* of the Consolidated Law on Finance;

f) «Authorized insurance distributors»: the subjects referred to in Article 1, Paragraph 1, Letter *w-bis* of the Consolidated Law on Finance;

g) «Client»: a natural or legal person for the benefit of whom an authorized insurance distributor performs insurance distribution activities;

h) «Insurance distribution activity»: the activity defined in Article 106 of the Private Insurance Code regarding insurance-based investment products;

i) «Advice»: the advice provided for by Article 1, Paragraph 1, Letter *m-ter)* of the Private Insurance Code;

l) «Independent advice»: the advice provided for by Article 24-*bis*, Paragraph 2 of the Consolidated Law on Finance, the subject matter of which are insurance-based investment products;

m) «Investment research»: research as defined in Article 36 of Regulation (EU) 2017/565, where it is provided to an authorized insurance distributor within the framework of the performance of the insurance distribution activity;

10.3.2021 and no. 22430 of 28.7.2022 in the terms specified in the following notes.

n) «Horizontal collaboration»: the collaboration between authorized insurance distributors and financial intermediaries entered in Sections A and B of the Register of Insurance Intermediaries referred to in Article 109 of the Private Insurance Code, or in the roll annexed to the register as referred to in Article 116-*quinquies* of the Private Insurance Code, pursuant to Article 22, Paragraph 10 of Decree Law no. 179 of 18 October 2012, converted into Law no. 221 of 17 December 2012;

o) «Durable medium»: the medium defined in Article 1, Paragraph 1, Letter *vv-quater)* of the Private Insurance Code, whose utilization is regulated by Article 120-*quater*, Paragraphs 1 to 6 of the Private Insurance Code;

p) «KID»: the document containing key information and prepared in accordance with Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products;

q) «Supplementary PID for IBIPs»: supplementary pre-contractual information document for insurance-based investment products as provided for by IVASS (Italian Insurance Supervisory Authority) Regulation no. 41 of 2 August 2018 laying down provisions on information obligations, advertising and manufacture of insurance-based products pursuant to Legislative Decree no. 209 of 7 September 2005 (Private Insurance Code);

r) «Distance communication techniques»: any techniques for contacting clients, other than advertising, and distributing insurance-based investment products without the authorized insurance distributor and the client being physically and simultaneously present;

s) «Reference market of the product manufacturer»: the reference market identified pursuant to Article 5, Paragraph 1 of Regulation (EU) 2017/2358;

t) «Actual reference market»: the reference market identified by the authorized insurance distributor distributing a product pursuant to Article 135-*quinquiesdecies*, Paragraphs 1 and 2;

u) «Incompatible reference market of the product manufacturer »: the group/s of clients for whose needs, characteristics and objectives the insurance-based investment product is not compatible, as identified by the product manufacturer in accordance with IVASS Regulation laying down provisions on oversight and governance requirements for insurance-based products in accordance with Legislative Decree no. 209 of 7 September 2005 (Private Insurance Code), as subsequently amended and supplemented;

v) «Actual incompatible reference market»: the group/s of clients for whose needs, characteristics and objectives the insurance-based investment product is not compatible, as identified by the authorized insurance distributor distributing the product in accordance with Article 135-*quinquiesdecies*, Paragraph 3;

v-bis) **«Sustainability preferences»: the choice provided for by Article 2, paragraph 4 of Regulation (EU) 2017/2359**[67]**.**

Article 132

67 Letter inserted with Resolution no. 22430 of 28.7.2022.

(*Horizontal collaborations*)

1. In the event of horizontal collaboration, the obligations laid down in this Book towards the clients, such as those laid down in Articles 134, 135, 135-*ter*, 135-*septies* and 135-*vicies quinquies*, shall be fulfilled by the authorized insurance distributor who is in a direct relationship with the client.

2. Without prejudice to Paragraph 1, the authorized insurance distributor shall ensure that the information to be provided to the client pursuant to Article 135-*septies*, Paragraph 5 also include the information regarding any payment or benefit received by or paid to third parties by the subjects concerned with the horizontal collaboration.

PART II
TRANSPARENCY AND FAIRNESS IN THE DISTRIBUTION OF INSURANCE-BASED INVESTMENT PRODUCTS

TITLE I
INFORMATION, ADVERTISING AND PROMOTIONAL MESSAGES

Article 133

(General requirements for information and pre-contractual information documents)

1. All information, including advertising and promotional messages, sent by authorized insurance distributors to clients or potential clients shall be fair, clear and non-misleading. Advertising and promotional messages shall be clearly identifiable as such.

2. Authorized insurance distributors shall provide clients or potential clients, before performing the transaction, in a comprehensible form, appropriate information in order for them to reasonably understand the type of distribution activity carried out and the type of insurance-based investment products offered, as well as the connected risks and, consequently, to make fully informed investment decisions. This information refers to:

a) The authorized insurance distributor:

i) In the case of authorized insurance distributors entered in Section D of the Single Register of Insurance Intermediaries referred to in Article 109 of the Private Insurance Code, the information shall include:

1) Company name;

2) Registered office and contact details;

3) Internet links, email address and certified email address, if any, and indication of the Internet site through which the activity is pursued or performed, where applicable;

ii) In the case of EU authorized insurance distributors entered in the Annexed Roll referred to in Article 116-*quinquies*, Paragraph 5 of the Private Insurance Code, the following information:

1) Company name;

2) Member State where it is registered;

3) Internet link for consultation of the register of the Member State in which it is registered;

4) Registered office or registration number in the home Member State;

5) Name of supervisory authority of the home Member State;

6) In the case of business through a permanent establishment, secondary office in the territory of the Italian Republic and name of the person responsible for the secondary office;

7) date of start of distribution activity in the territory of the Italian Republic;

8) telephone number and Internet link and email address and, where applicable, certified email address;

iii) reference to the Register of Insurance Intermediaries referred to in Article 109 of the Private Insurance Code, or Annexed Roll referred to in Article 116-*quinquies*, Paragraph 5 of the Private Insurance Code, on which the authorized insurance distributor is registered, and indication of how to check that they are actually registered;

iv) procedures that allow clients to file claims with out-of-court dispute resolution entities or to submit complaints to the authorized insurance distributor or insurance company;

v) any direct or indirect shareholding equal to or higher than ten percent of share capital or voting rights in insurance companies;

vi) any direct or indirect shareholding equal to or higher than ten percent of share capital or voting rights of the authorized insurance distributor held by insurance companies or by the parent companies of insurance companies;

b) the insurance-based investment product and the insurance distribution activity:

i) business activities pursued and related characteristics, with indication of the content of the services rendered;

ii) in the case of products distributed through the provision of advice, authorized insurance distributors shall inform clients of the following:

1) if the advice is based on the analysis of a sufficient number of insurance-based investment products available on the market, allowing the authorized insurance distributors to make a customized recommendation, according to professional criteria, of an insurance-based investment product capable of meeting the client's requirements;

2) if the advice is provided on an independent basis. The authorized distributor shall explain in a clear and brief manner if and why the advice qualifies as provided or not provided on an independent basis and the type and nature of the applicable limits, including the prohibition to receive and retain incentives;

3) if the advice is obligatory, pursuant to Article 135-*quater*;

4) if the cost of the advice is not charged to the client, pursuant to Article 121-*septies*, Paragraph 2 of the Private Insurance Code;

5) if the authorized insurance distributor provides to the client a periodic assessment of the suitability of the insurance-based investment products offered or recommended;

iii) if the authorized insurance distributor is obliged, under a contractual obligation, to propose contracts exclusively of one or more insurance companies, having to, in this case, specify the names of these companies;

iv) if the authorized insurance distributor distributes products of one or more insurance companies under no exclusive rights. In this case, the distributor shall communicate the names of the insurance companies with which it has or could have business relationships;

v) the nature and source of the conflicts of interest in relation to which the measures to manage them are not sufficient to ensure with reasonable certainty that the risk of harming the interests of clients is averted;

vi) indication of the investment strategies proposed, including due guidelines and warnings on the risks associated with the insurance-based investment products or certain investment strategies proposed;

vii) if the authorized insurance distributor acts on assignment by the client or in the name and on behalf of one or more insurance companies, having to, in this case, specify the name of the company/ies whose products it distributes;

viii) name/company name of the insurance intermediary/ies with which the authorized insurance distributor currently has a relationship of horizontal collaboration in place;

ix) in reference to the payment of premiums:

1) if the premiums paid by the client and the sums destined to the reimbursements or payments due by the insurance companies – if handled by the authorized insurance distributor – constitute a separate pool segregated from the assets of this authorized distributor,

or

2) if proper bank guarantee has been provided to secure a financial capability amounting to 4 per cent of the premiums received, subject to the minimum required under EU legislation;

x) with regard to the remunerations and incentives received, the authorized insurance distributor shall indicate:

1) the nature of the compensation (fee paid directly by the client; commission included in the insurance premium; other type of compensation, including economic benefits of any type offered or received by virtue of the distribution carried out; combination of the different types of compensation referred to above);

2) in the case of fees paid directly by the client, the compensation amount or, if not possible, information regarding the method to calculate it;

3) information on all costs and charges, including information on the insurance distribution activity, cost of the insurance-based investment product recommended or offered for sale to the client and method of payment by the client, including any payments made to or through third parties. The information on costs and charges, including those related to the insurance distribution activity and the insurance-based investment product, not caused by the occurrence of an underlying market risk, shall be presented in aggregate form to allow the client to understand the total cost and its overall effect on the return and, if requested by the client, in analytical form;

4) the information required under Articles 135-*sexies*, Paragraph 2, 135-*octies*, Paragraph 4, 135-*decies*, Paragraph 4, and 135-*duodecies*, Paragraph 1, Letter *a)*.

3. When providing clients with information on an insurance-based investment product, authorized insurance distributors shall inform clients of the KID and Supplementary PID for IBIPs being in place. The information obligations referred to in par 2, letter *b)*, in reference to the product, can be fulfilled by delivery of the KID and Supplementary PID for IBIPs, if these documents contain all the information required. In the case of products entailing multiple investment options, authorized insurance distributors shall provide the information with regard to the specific investment options.

4. Where the authorized insurance distributors proceed to the distribution of insurance-based investment products by means of door-to-door selling or distance communication techniques, they shall inform the clients that they are under the obligation to:

a) assess consistency with the client's or potential client's insurance demands and needs, the suitability or appropriateness of the insurance-based investment product offered, acquiring, to this purpose, any useful information;

b) comply with the other conduct of business rules, as required by the legislation in force;

c) give clients or potential clients, before the transaction is performed, a copy of the information documents prescribed by the legislation in force;

d) give clients or potential clients a copy of the contracts and any other document subscribed by them.

Article 134

(Method to provide information)

1. The information referred to in Article 133, Paragraph 2, Letter *a)*, shall be provided to the clients before the transaction is performed, by transmission or delivery of a proper document.

2. The obligation to deliver or transmit the information referred to in par 1 shall not apply where the authorized insurance distributors provide the information at the time of establishment of the relationship with the clients. At the time of distribution of an insurance-based investment product after the establishment of the relationship with the client, the information referred to in Article 133, Paragraph 2, Letter *a)* shall be provided by delivery or transmission of a document, if this information has been updated.

3. The information referred to in Article 133, Paragraph 2, Letter *a)* shall also be available at the

premises of the authorized insurance distributor, including by means of technological equipment, or shall be published on its Internet site, where used for the distribution of insurance-based investment products, provided that proper notice of such publication is posted at the distributor's premises.

4. The information referred to in Article 133, Paragraph 2, Letter *b)* shall be provided by the authorized insurance distributors before performing transactions, the subject matter of which is an insurance-based investment product, by transmission or delivery of a proper document.

5. Authorized insurance distributors shall apply Articles 44, 46, 47, except for Paragraph 1, Letter *g)*, 48, 50, 51 and 52 of Regulation (EU) 2017/565.

6. The information referred to in Article 133 Paragraph 2, Letters *a)* and *b)* shall be provided in accordance with the provisions of Article 120-*quater*, Paragraphs 1 to 6 of the Private Insurance Code.

TITLE II
SUITABILITY, APPROPRIATENESS, OBLIGATORY ADVICE AND COMBINED SALES PRACTICES

Chapter I
Suitability

Article 135
(General principles)

1. When providing advice on insurance-based investment products, authorized insurance distributors shall recommend insurance-based investment products that are suited to the client's or potential client's insurance demands and needs. For this purpose, authorized insurance distributors shall obtain from clients or potential clients such information as is necessary on their insurance needs, asking their personal characteristics and insurance demands, including, where pertinent, specific information on the age, health status, work, household, financial and insurance situation and expectations with regard to the insurance-based investment product, in terms of cover and duration, also keeping into account any existing insurance contracts, the type of risk, the characteristics and the complexity of the product offered.

2. When providing advice on insurance-based investment products, authorized insurance distributors shall recommend insurance-based investment products that are suitable for the client or potential client and, in particular, that are suitable in consideration of that person's risk tolerance, **sustainability preferences** and ability to bear losses. They shall not recommend insurance-based investment products that are not suitable for clients or potential clients[68].

3. For the purpose of Paragraph 2, authorized insurance distributors shall obtain from clients or potential clients such information as is necessary on:

a) knowledge and experience in the investment field relevant to the specific type of recommended product;

68 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "that person's risk tolerance" added the words: ", sustainability preferences."

b) financial situation, including their ability to bear losses;

c) investment objectives, including their risk tolerance.

4. Authorized insurance distributors shall apply Articles 9, 10, 11, 12, 13, 17, 18 and 19 of Regulation (EU) 2017/2359.

5. Authorized insurance distributors maintaining a steady relationship with the client, by way of example, by providing consulting services in the investment field and a periodic assessment of suitability, shall establish appropriate policies and procedures that are provable, in order to keep adequate and updated information on clients for the purpose of complying with paragraphs 1 and 2.

6. When providing advice on insurance-based investment products, authorized insurance distributors shall establish appropriate policies and procedures that are provable, to ensure that they are able to:

a) understand the nature and characteristics, including costs and risks, of the insurance-based investment products selected for the clients**, including any sustainability factors**[69];

b) evaluate, considering the cost and level of complexity, if other financial products or other equivalent insurance-based investment products are suitable for the client.

Article 135-*bis*

(Statements of fulfilment of insurance demands and needs and of suitability)

1. Before the performance of a transaction, authorized insurance distributors shall provide a statement to the client of the product's fulfilment of that person's insurance demands and needs.

2. For the purpose of Article 14 of Regulation (EU) 2017/2359, authorized insurance distributors who provide advice on insurance-based investment products shall provide clients, on a durable medium, before the transaction is performed, with a statement of suitability specifying the advice given and indicating why the product corresponds to the preferences, objectives and other characteristics of the client.

3. In the event that, for the purposes of performing the transaction, a means of distance communication is used that prevents the prior delivery of the statements as referred to in Paragraphs 1 and 2, these may be provided to the client, on a durable medium, without undue delay, immediately after the conclusion of the transaction, on the condition that:

a) the client has given his/her consent; and

b) the authorized distributor has given the client the option of delaying the execution of the transaction in order to first receive the statements.

Chapter II
Appropriateness

Article 135-*ter*

(General principles)

69 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "selected for the clients" added the words: ", including any sustainability factors."

1. Any insurance-based investment product offered or requested shall be suited to the client's or potential client's insurance demands and needs. For this purpose, authorized insurance distributors shall obtain from clients or potential clients such information as is necessary on their insurance needs, asking their personal characteristics and insurance demands, including, where pertinent, specific information on the age, health status, work, household, financial and insurance situation and expectations with regard to the insurance-based investment product, in terms of cover and duration, also keeping into account any existing insurance contracts, the type of risk, the characteristics and the complexity of the product offered. Before conclusion of the contract, authorized insurance distributors shall provide the client with the statement of appropriateness to the client's insurance demands and needs referred to in Article 135-*bis* (1). Article 135-*bis* (3) shall also apply.

2. When distributing insurance-based investment products without providing advice, authorized insurance distributors shall ask clients or potential clients to provide information on their knowledge and experience regarding the specific type of product offered or requested, in order to determine whether the product in question is appropriate for the client or potential client.

3. Should the authorized insurance distributors consider, pursuant to Paragraph 2, that the product is not appropriate for the client or potential client, they shall warn that person of this situation, specifying it in a proper statement. The warning may be provided in a standardized format.

4. Should the client or potential client choose not to provide the information referred to in Paragraph 2, or should this information not be sufficient, authorized insurance distributors shall warn the client or potential client that these circumstances will prevent them from determining whether the product is appropriate for that person, specifying it in a proper statement. The warning may be provided in a standardized format.

5. Authorized insurance distributors shall apply Articles 15, 17, 18 and 19 of Regulation (EU) 2017/2359.

Chapter III
Obligatory advice

Article 135-*quater*
(Obligatory advice)

1. In the insurance distribution activity, authorized insurance distributors shall provide advice in regard to the sale of the insurance-based investment products subject to obligatory advice pursuant to Article 68-*duodecies* of IVASS Regulation no. 40 of 2 August 2018 laying down provisions on the insurance and reinsurance distribution referred to in Title IX (General provisions on insurance distribution) of Legislative Decree no. 209 of 7 September 2005 (Private Insurance Code). For this purpose, authorized insurance distributors shall acquire from the insurance manufacturers a list of the products subject to obligatory advice.

2. The provision of advice on insurance-based investment products and consulting in the investment field along with a periodic suitability assessment shall not result in the application of Article 121-*septies*, Paragraph 2, second clause of the Private Insurance Code.

Chapter IV
Combined sales procedures

Article 135-*quinquies*
(*Combined sales procedures*)

1. In the event that an insurance-based investment product is offered in conjunction with another investment or ancillary service or product, as part of a package or as a condition for obtaining such an agreement or package, authorized insurance distributors shall inform the client if the various components can be bought separately and provide a suitable description of the various components of that agreement or package and separate details of the costs and charges of each component.

2. When a combined sales procedure is offered to a client and the risks associated with this procedure are likely to be different from those associated with the components taken separately, the authorized insurance distributors shall provide a suitable description of the different elements of the agreement or package and of the manner in which its composition alters the risks or insurance cover.

3. When offering as an advisor and recommending a package of aggregate services or products, authorized insurance distributors shall ensure that the whole package is suited to and appropriate for the client's insurance demands and needs, in compliance with Article 135.

4. In the case of the distribution of insurance investment products without advice, authorized insurance distributors shall assess suitability for the client's insurance demands and needs and the appropriateness of the package of services or products as a whole, in accordance with Article 135-*ter*.

5. For the purposes of this article, the authorized insurance distributors shall take into account the Guidelines issued by ESMA pursuant to Article 24, Paragraph 11 of Directive 2014/65/EU.

TITLE III
INCENTIVES

Chapter I
Incentives

Article 135-*sexies*
(*General principles*)

1. Without prejudice to that established under Article 135-*octies*, authorized insurance

distributors may not, in relation to the insurance distribution activity, pay or receive fees or commissions or provide or receive non-monetary benefits to or from any entity other than the client or a person acting on behalf of the client, unless the payments or benefits:

a) have the purpose of enhancing the quality of the insurance distribution activity;

and

b) do not prejudice the fulfilment of the obligation to act honestly, fairly and professionally in the best interests of the client.

2. The client must be clearly informed of existence, nature and amount of the payments or benefits referred to in Paragraph 1 or, where the amount cannot be ascertained, the method of calculation of this amount, in a complete, accurate and comprehensible manner, prior to the insurance distribution activity. Where applicable, authorized insurance distributors shall inform their clients of the mechanisms for transferring to clients the fees, commissions or monetary or non-monetary benefits received for the performance of the insurance distribution activity. Smaller non-monetary benefits can be described in a generic manner. Other non-monetary benefits received or paid are quantified and indicated separately. Information shall be provided in a comprehensible form, in order that clients or potential clients may reasonably understand the nature of the service and the specific type of insurance-based investment product being offered, as well as the connected risks and, consequently, allow them to make fully informed investment decisions.

3. The obligations referred to in this article shall not apply to payments or benefits allowing performance of the insurance distribution activity or that are necessary for that purpose, and that, by their nature, cannot come into conflict with the duty of the authorized insurance distributor to act honestly, fairly and professionally in accordance with the best interests of client.

Article 135-*septies*
(*Conditions of admissibility of incentives*)

1. The purpose referred to in Article 135-*sexies* shall be regarded as satisfied if all the conditions referred to in Article 53, Paragraph 1 are fulfilled.

2. In accordance with that established under Article 8 of Regulation (EU) 2017/2359, a fee, commission or non-monetary benefit is inadmissible where the provision of the authorized insurance distribution is distorted or negatively affected by the fee, commission or non-monetary benefit.

3. Authorized insurance distributors shall fulfil the conditions referred to in Paragraphs 1 and 2 as long as they continue to pay or receive the fee, commission or non-monetary benefit.

4. Authorized insurance distributors shall retain proof of the fact that the fees, commissions or non-monetary benefits paid or received are designed to improve the quality of the insurance distribution activity:

a) by keeping an internal list of all fees, commissions and non-monetary benefits received from third parties for the provision of insurance distribution activities; and

b) by recording the way in which the fees, commissions and non-monetary benefits paid or received by the authorized insurance distributor, or that the distributor intends to use, improve the quality of the insurance distribution activities, as well as the measures taken in order not to prejudice the duty to act in an honest, impartial and professional manner to best serve the interests of the clients.

5. In relation to each payment or benefit received by or paid to third parties, authorized insurance distributors:

a) prior to the distribution of an insurance investment product, shall provide clients with the information referred to in Article 135-*sexies*, Paragraph 2, on the basis of that provided under Article 133, Paragraph 2, Letter *b)*, Roman Numeral *x)*, Point *4)*. Smaller non-monetary benefits can be described in a generic manner. Other non-monetary benefits received or paid are quantified and indicated separately;

b) where they have not been able to quantify *ex-ante* the amount of the payment or benefit to be received or paid and have instead informed the clients of the method of calculation of that amount, shall inform clients *ex-post* of the exact amount of the payment or of the benefit received or paid; and

c) in the case of continuous incentives, shall notify clients individually, at least once a year, of the actual amount of the payments or benefits received or paid. Smaller non-monetary benefits can be described in a generic manner.

6. In the fulfilment of the obligations referred to in Paragraph 5, authorized insurance distributors shall take into account the provisions on costs and charges provided for by Article 121-*sexies*, Paragraph 1, Letter *c)*, and 2 of the Private Insurance Code, and Article 50 of Regulation (EU) 2017/565.

Chapter II
Incentives in relation to the insurance distribution activity by independent advice services

Article 135-*octies*

(Incentives concerning the insurance distribution activity by independent advice services)

1. In the performance of the insurance distribution activity by independent advice services, all fees, commissions or other monetary or non-monetary benefits paid or supplied by third parties or by an entity acting on their behalf shall not be accepted and retained, except for smaller non-monetary benefits that can enhance the quality of the services offered to the clients, and that, by their size and nature, cannot be considered as preventing the observance of the duty to act in the clients' best interest. Authorized insurance distributors:

a) shall return to the client, as soon as reasonably possible after their reception, all fees, commissions or monetary benefits paid or supplied by third parties or by an entity acting on their behalf, in relation to the activities and services provided to the client. All fees, commissions or monetary benefits received from third parties in relation to the insurance distribution activity by independent advice services shall be transferred in full to the client;

b) shall establish and implement a policy to ensure that fees, commissions or monetary benefits paid or supplied by third parties, or by an entity acting on their behalf, are assigned and transferred to each individual client;

c) shall inform clients about the fees, commissions or any monetary benefits transferred to them via suitable means.

2. The following smaller, non-monetary benefits only are eligible:

a) information or documentation relating to an insurance investment product or insurance distribution service of a generic nature or customized according to a specific client;

b) written material from third parties, commissioned and paid for by a corporate issuer or by a potential issuer to promote a new issue by the firm, or when the third party is contractually committed and paid by the issuer to produce such material on a permanent basis, provided that the agreement is clearly documented in the material and that it is made available to any authorized insurance distributor who wishes to receive it or to the general public at the same time;

c) participation in conferences, seminars and other training events on the benefits and features of a given insurance-based investment product, insurance distribution activity or independent advice service;

d) hospitality of a reasonable *de minimis* value, such as food and drink during a business meeting or a conference, seminar or other training events referred to in Letter *c)*.

3. Eligible smaller, non-monetary benefits must be reasonable and proportionate and such that they do not affect the behavior of the authorized insurance distributor in any way that would be prejudicial to the interests of the client.

4. Clients shall be informed of eligible smaller, non-monetary benefits prior to the insurance distribution activity and independent advice services, on the basis of that provided under Article 133, Paragraph 2, Letter *b)*, Roman Numeral *x)*, Point *4)*. These benefits can be described in a generic manner.

Chapter III
Investment research

Article 135-*novies*
(Conditions)

1. The provision of investment research in relation to insurance-based investment products by third parties to authorized insurance distributors within the framework of the performance of that activity shall not be considered as an incentive if it is paid for:

a) directly by the authorized insurance distributors by means of own resources;

b) through a dedicated research expense account controlled by the authorized insurance distributors, provided that the following conditions are met:

1) the expense account is funded by a specific research expense charged to the clients;

2) the authorized insurance distributors establish and regularly review a research budget;

3) the authorized insurance distributors are responsible for managing the expense account. The management of this account may be delegated to third parties, provided that this will facilitate the purchase of research provided by third parties and that payments to these third parties are made, without undue delay, in the name of the authorized insurance distributors, in accordance with their instructions;

4) the authorized insurance distributors assess regularly, on the basis of strict criteria, the quality of the purchased research and the degree to which this research contributes to investment decision-making in the interest of the clients. The authorized insurance distributors formulate in writing a special policy outlining all the elements required for this assessment. Clients are provided with this policy.

2. Authorized insurance distributors shall include in the policy referred to in Paragraph 1, Letter *b)*, point *4)*, the size of the benefit that research purchased through the expense account can bring to the optimal *asset allocation* of clients, taking into account the approach that will be adopted to spread the costs of research equally among the various client investments.

Article 135-*decies*
(Research costs)

1. For the purposes of Article 135-*novies*, Paragraph 1, Letter *b)*, Point *1)*, the costs of research charged to the clients:

a) shall be determined solely on the basis of a research budget defined pursuant to Article 135-*undecies*; and

b) shall not be related to the volume and/or value of the transactions performed on behalf of the clients.

2. When the costs of research charged to the clients are collected together with a trading commission and not separately, these costs shall be identified separately and the conditions referred to in Articles 135-*novies*, Paragraph 1, Letter *b)*, and 135-*duodecies*, Paragraph 1, Letters *a)* and *b)* shall be fulfilled.

3. The total sum of the research costs received from clients cannot exceed the research budget, except as provided for by Article 135-*undecies*, Paragraph 4.

4. Authorized insurance distributors shall provide clients or potential clients, in due time and in a comprehensible form, with the research costs determined on the basis of the budget referred to in Paragraph 1 and the frequency with which these costs will be charged to each client over the course of the year on the basis of that provided under Article 133, Paragraph 2, Letter *b)*, Roman Numeral *x)*, Point *4)*.

Article 135-*undecies*
(Research budget)

1. For the purposes of Article 135-*novies*, Paragraph 1, Letter *b)*, Point *2)*, research budget shall be managed exclusively by the authorized insurance distributors and is based on a reasonable assessment of the need for research provided by third parties.

2. In order to ensure that the budget is managed and used in the best interest of the clients, the allocation of the budget for the purchase of third party research shall be subject to appropriate controls and to supervision by the authorized insurance distributors' senior management.

3. The controls referred to in Paragraph 2 shall include the way in which payments are made to research providers and the methods of determining the amounts they are paid, taking into account the criteria laid down in Article 135-*novies*, Paragraph 1, Letter *b)*, Point *4)*.

4. Authorized insurance distributors can increase the research budget only after having clearly informed the clients of the circumstances.

5. In the event that surplus funds remain in the research expense account at the end of the period determined in the budget, authorized insurance distributors shall adopt appropriate procedures to reimburse the clients for these amounts or to compensate them by offsetting against the costs calculated for the following period on the basis of the relative budget.

6. Authorized insurance distributors shall not use the research budget and the relevant expense account to fund internal research.

Article 135-*duodecies*
(Disclosure)

1. When using a research expense account, authorized insurance distributors shall provide clients with the following:

a) in due time, information on the foreseen amount of the research budget and on the estimated research costs for each client on the basis of the provisions of Article 133, Paragraph 2, Letter *b)*, Roman Numeral *x)*, Point *4)*;

b) on an annual basis, information on the total costs that each client has incurred for research;

c) upon request by the client or by CONSOB, a list of the research providers who have been paid from this account, as well as, referring to a certain period of time, the total amount they were paid, the benefits and services received and a comparison between the total amounts spent using this account and those set out in the budget, indicating any downgrades or surpluses in the event of available funds remaining in the account.

TITLE IV
REPORTS

Article 135-*terdecies*
(Reports to clients)

1. For the purposes of Article 18 of Regulation (EU) 2017/2359, authorized insurance distributors shall provide clients, on a durable medium and at least once a year, with reports on the services provided, taking into account the type and complexity of the insurance-based investment products and the nature of the activity.

2. Authorized insurance distributors who have informed clients that they will carry out periodic assessment of the suitability of financial instruments and insurance-based investment products

shall provide clients with periodic reports containing an up-to-date statement indicating the reasons why the investment corresponds to the preferences, objectives and other characteristics of the client.

3. Authorized insurance distributors shall apply Articles 50 of Regulation (EU) 2017/565.

TITLE V[70]
GOVERNANCE OF INSURANCE-BASED INVESTMENT PRODUCTS – OBLIGATIONS FOR AUTHORIZED INSURANCE DISTRIBUTORS

Article 135-*quaterdecies*
(General principles)

1. Authorized insurance distributors shall have in-depth knowledge of the insurance-based investment products distributed, assess suitability for the clients' needs, distribute the products in the reference market of the product manufacturer and make sure that the products are distributed only when this distribution is in the clients' best interest.

Moreover, authorized insurance distributors:

a) review regularly the insurance-based investment products distributed, taking into account any event which might affect significantly the potential risks for the reference market, in order to assess at least whether the insurance-based investment product remains consistent with the requirements of this market, and whether the planned distribution strategy continues to be appropriate, and possible product reviews by the manufacturer;

b) take appropriate measures to acquire information on the insurance-based investment product and related approval process, including the reference market of the product manufacturer, in order to understand the characteristics and the reference market of each product.

2. Authorized insurance distributors shall apply Articles 10, 11 and 12 of Regulation (EU) 2017/2358.

Article 135-*quinquiesdecies*
(Actual reference market)

1. Authorized insurance distributors shall adopt appropriate measures and procedures to ensure that the insurance-based investment products they intend to distribute are compatible with the requirements, characteristics and objectives**, including any sustainability objectives,** of the actual reference market and that the planned distribution strategy is consistent with this market[71].

2. Authorized insurance distributors shall identify and evaluate in an appropriate manner the situation and the needs of the clients for whom the insurance-based investment products are

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70 **Article 3, paragraph 3 of Resolution no. 22430 of 28.7.2022 provides that: "The changes made by this Resolution to the provisions laid down in: *i)* Book III, Part II, Title VIII of the Intermediaries' Regulation; *ii)* Book IX, Part II, Title V of the Intermediaries' Regulation shall apply as from 22 November 2022, without prejudice to the date of application of Regulation (EU) 2021/1257."**

71 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "objectives" added the words: ", including any sustainability objectives,".

intended, in order to ensure that the interests of these clients are not compromised by commercial pressures or by the financing requirements of the distributor.

3. Authorized insurance distributors shall identify the actual reference market with whose needs, characteristics and objectives the product is not compatible. **In reference only to the sustainability factors, the authorized insurance distributors are not obliged to carry out the identification referred to in this paragraph for the insurance-based investment products that consider the sustainability factors.**

4. The actual reference market referred to in Paragraphs 1 and 2 and the actual incompatible reference market are a specification of the reference market and incompatible reference market of the product manufacturer identified pursuant to Article 30-*decies*, Paragraph 4 of the Private Insurance Code, which, without prejudice to the responsibility of the authorized insurance distributor, may coincide.

5. The actual reference market referred to in Paragraphs 1 and 2 and the actual incompatible reference market shall be communicated, prior to distribution, to the product manufacturer.

6. Without prejudice to the verification and monitoring obligations laid down in Article 8, Paragraph 4 of Regulation (EU) 2017/2358, authorized insurance distributors:

a) shall not distribute insurance-based investment products to clients belonging to the actual incompatible reference market or incompatible reference market of the product manufacturer;

b) can distribute insurance-based investment products to the clients who do not belong to the actual reference market referred to in Paragraphs 1 and 2 or reference market of the product manufacturer, provided that these products fulfill the insurance demands and needs of those clients and:

i) are suitable, in the case of the insurance-based investment products referred to in Article 135-*quater*, Paragraph1;

ii) are suitable or appropriate, in the case of insurance-based investment products other than those referred to in Article 135-*quater*, Paragraph 1.

7. Product distribution to clients who do not belong to the reference market, pursuant to Paragraph 6, shall be communicated by the authorized insurance distributors to the product manufacturer.

8. Authorized insurance distributors of insurance-based investment products manufactured by insurance companies whose registered office is established in a Member State other than Italy shall take all necessary measures to ensure that the products are distributed in accordance with this Book, comply with EU and Italian legislation and fulfil the needs, characteristics and objectives**, including any sustainability objectives,** of the identified actual reference market[72].

Article 135-*sexiesdecies*

(Role of the corporate governing bodies, of business control functions and of personnel)

72 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "objectives" added the words: ", including any sustainability objectives,".

1. The governing body with the function of strategic supervision is ultimately responsible for compliance with the rules for insurance distribution and definition of the actual reference market.

2. The conformity control function shall monitor the development and periodic review of the procedures and measures adopted by the authorized insurance distributors for the governance of the insurance-based investment products, in order to identify the risks of failing to fulfil the obligations provided for in this Title and Chapter III of Regulation (EU) 2017/2358.

3. The reports of the function of conformity control systematically include in a proper section information about the insurance-based investment products distributed by the authorized insurance distributor and the distribution strategy.

4. Authorized insurance distributors shall make available to CONSOB, upon request, the reports referred to in Paragraph 3.

5. Authorized insurance distributors shall make available to IVASS, upon request, the proper section of the report of the function of conformity control referred to in Paragraph 3.

6. Authorized insurance distributors shall ensure that the personnel has the necessary skills to understand the characteristics and risks, including any sustainability factors, of the insurance-based investment products they wish to distribute and the needs, characteristics and objectives, including any sustainability objectives, of the reference market[73]**.**

Article 135-*septiesdecies*
(Exchange of information with product manufacturers)

1. Authorized insurance distributors shall obtain from product manufacturers information as is necessary to understand and know in detail the products they wish to distribute, in order to ensure that these are distributed consistently with the needs, characteristics and objectives of the reference market identified pursuant to Article 135-*quinquiesdecies*.

2. Authorized insurance distributors shall use the information obtained in accordance with this Article, and the information about their clients, to identify the reference market referred to in Article 135-*quinquiesdecies* and the distribution strategy for insurance-based investment products.

3. Authorized insurance distributors shall provide information on the sales of the insurance-based investment products and, if applicable, information on the product review referred to in Article 135-*octiesdecies* to the product manufacturers to support the control, monitoring and review process of the insurance-based investment products carried out by them.

Article 135-*octiesdecies*
(Review)

1. Authorized insurance distributors shall regularly review and update the procedures and the measures adopted, in order to ensure their continued rigorousness and suitability for the fulfilment of the obligations outlined in this Title and shall take, if necessary, appropriate measures.

2. Authorized insurance distributors shall review regularly the insurance-based investment products distributed, taking into account any event that could have a significant effect on the

73 Paragraph thus replaced with Resolution no. 22430 of 28.7.2022.

potential risks for the actual reference market identified pursuant to Article 135-*quinquiesdecies*.

3. Authorized insurance distributors shall assess at least whether the insurance-based investment product remains consistent with the requirements, characteristics and objectives**, including any sustainability objectives,** of the actual reference market and whether the planned distribution strategy continues to be appropriate[74].

4. Authorized insurance distributors shall reconsider the actual reference market and/or update the procedures and measures adopted where they detect having wrongly identified the actual reference market for a specific insurance-based investment product or where the insurance-based investment product no longer satisfies the conditions of the actual reference market.

5. The identification of a new actual reference market as a result of the reconsideration referred to in Paragraph 4 shall be communicated to the product manufacturer pursuant to Article 135-*quinquiesdecies*, Paragraph 5.

Article 135-*noviesdecies*
(Horizontal collaboration)

1. In the case of horizontal collaboration, each authorized insurance distributor shall be responsible for the proper fulfilment of the obligations set forth in this Title. Article 16, Paragraph 5 of IVASS Regulation laying down provisions on insurance-based product oversight and governance pursuant to Legislative Decree no. 209 of 7 September 2005 (Private Insurance Code), as subsequently amended and supplemented, and Article 42, Paragraphs 4 and 4-*bis*, of IVASS Regulation no. 40 of 2 August 2018 laying down provisions on insurance and reinsurance distribution as referred to in Title IX (General provisions on insurance distribution) of Legislative Decree 209 of 7 September 2005 (Private Insurance Code), shall apply.

Article 135-*vicies*
(Principle of proportionality)

1. Authorized insurance distributors shall comply with the obligations laid down in this Title in an appropriate and proportional manner, taking into account the nature of the insurance-based investment product and the reference market of the product.

2. In the fulfilment of the obligations referred to in Paragraph 1, authorized insurance distributors shall take particular care if they intend to distribute new insurance-based investment products or in the case of changes to the distribution activity carried out.

TITLE VI
REQUIREMENTS OF KNOWLEDGE AND COMPETENCE

Article 135-*vicies semel*
(Knowledge and competences)

1. In the distribution of insurance-based investment products, authorized insurance distributors shall comply with the provisions laid down in Title IX of Part II of Book III in reference to in-house personnel. The requirements of knowledge and competence shall be supplemented by Annex I, Point

74 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "objectives" added the words: ", including any sustainability objectives,".

II of Directive (EU) 2016/97 on insurance distribution. In any case, the authorized insurance distributors shall ensure that the in-house members of personnel maintain adequate qualifications and refresh their knowledge and skills through a process of continuous personal education or development that pertains to their qualifications and entails, at least every twelve months, participation in a course of at least thirty hours. A test for the assessment of the acquired knowledge shall be taken at the end of the course, with the issue, in case of successful outcome, of a certificate indicating the name of the training entity and of the teachers, the number of hours of attendance at the course, the subjects covered and the successful outcome of the final test[75].

2. The hours of professional training and refresher courses taken in compliance with Article 156 or for the purpose of registration and permanence in the Register of Insurance Intermediaries, including on an ancillary basis, and Reinsurance Intermediaries as referred to in Article 109 of the Private Insurance Code, or in the rolls of financial agents or credit brokers as referred to in Article 128-*undecies* of the Consolidated Banking Law, turning on the subject matters indicated in Parts 17 and 18 of ESMA/2015/1886 Guidelines, are valid also for the purpose of the fulfilment of the requirements set out in Paragraph 1[76].

TITLE VII
DISTRIBUTION OF BANK AND INSURANCE-BASED INVESTMENT PRODUCTS AND INVESTMENT SERVICES

Article 135-*vicies bis*
(Distribution of bank and insurance-based investment products and investment services)

1. Intermediaries that carry out the service of distribution of structured deposits, financial products issued by banks other than financial instruments and/or insurance-based investment products regulated by this Book, both the placement of financial instruments and/or investment advice, shall consider relationships with clients as a whole, in order to comply in a uniform and coordinated manner with the rules of conduct.

TITLE VIII
INSTRUCTIONS ISSUED BY THE INSURANCE COMPANIES

Article 135-*vicies ter*
(Instructions issued by the insurance companies)

1. Authorized insurance distributors shall comply with the instructions issued by the insurance companies for which they operate.

2. In particular, authorized insurance distributors shall transmit to the insurance company, upon

75 Paragraph thus amended with Resolution no. 21755 of 10.3.2021, which added the last two clauses.

76 Paragraph thus amended with Resolution no. 21755 of 10.3.2021, which replaced the words: "indicated in Title IX of Part II of Book III" with the words: "indicated in Parts 17 and 18 of ESMA/2015/1886 Guidelines".

specific instruction by the same, the information concerning all costs and charges related to the distribution activity required to prepare the "Single Document Report" indicated in Article 25 of IVASS Regulation no. 41 of 2 August 2018 laying down provisions on information, advertising and manufacture of insurance products pursuant to Legislative Decree 209 of 7 September 2005 (Private Insurance Code).

PART III
INTERNAL PROCEDURES, STANDARDS COMPLIANCE FUNCTION, HANDLING OF COMPLAINTS, PERSONAL TRANSACTIONS

Article 135-*vicies quater*
(Applicable legislation)

1. In the performance of the insurance distribution activities, authorized insurance distributors shall comply with the provisions laid down in Part II of Book IV, referring the obligations prescribed therein to the insurance distribution activities and insurance-based investment products.

PART IV
CONFLICTS OF INTEREST

Article 135-*vicies quinquies*
(General principles)

1. Authorized insurance distributors shall maintain and apply effective organizational and administrative provisions in order to adopt all reasonable measures so as to avoid conflicts of interest from negatively affecting the interests of the clients**, including their sustainability preferences**[77].

2. When the organizational and administrative measures adopted pursuant to Paragraphs 1 and 2 are not sufficient to ensure, with reasonable certainty, that the risk of harming the interests of customers is avoided, authorized insurance distributors shall inform the clients clearly – before acting on their behalf - of the nature and/or of sources of the conflicts and of the mitigating measures adopted. This information shall be provided on a durable medium in accordance with Article 121-*quinquies*, Paragraph 2 of the Private Insurance Code and be sufficiently detailed, in consideration of the characteristics of the client, so that the client is capable of making an informed decision on the activity, within the context in which the conflict situations arise.

3. In order to avoid that conflicts of interest negatively affect the interests of the clients, authorized distributors shall establish specifically for each contract, if the simultaneous qualification as beneficiary or lien holder of the insurance services and as distributor of the related contract negatively affects the interests of the client, assessing in particular the context of the contractual operation and the financial situation of the client.

4. Authorized insurance distributors shall apply Articles 3, 4, 5, 6 and 7 of Regulation (EU) 2017/2359.

77 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "of the clients" added the words: ", including their sustainability preferences."

Article 135-*vicies sexies*
(Systems of remuneration and personnel incentives and assessment)

1. In the performance of the insurance distribution activities, authorized insurance distributors must avoid rewarding and encouraging their personnel in ways that are incompatible with the duty to act in the best interest of the clients.

2. For the purposes of Paragraph 1, authorized insurance distributors shall not adopt provisions on remuneration, sales targets or other that could encourage personnel to recommend to clients a particular insurance-based investment product where a different product could be offered that is more suited to the needs of the client.

3. In fulfilling the obligations of this article, authorized insurance distributors shall apply Article 8 of Regulation (EU) 2017/2359.

4. Authorized insurance distributors shall avoid assessing the performance of their personnel in ways that are incompatible with the duty to act in the best interest of the clients.

PART V
PRESERVATION OF RECORDS

Article 135-*vicies septies*
(Preservation of records)

1. Without prejudice to the provisions of Article 19 of Regulation (EU) 2017/2359, authorized insurance distributors, for all activities and transactions performed, shall keep records sufficient to allow Consob to verify compliance with the rules on distribution of insurance-based investment products, and in particular fulfilment of the obligations with regard to clients or potential clients.

2. Authorized insurance distributors shall apply Article 94, Paragraphs 2 and 3.

Article 135-*duodetricies*
(Recording of telephone conversations and electronic communication)

1. The records referred to in Article 135-*vicies septies* include the recording of telephone conversations or electronic communications regarding transactions concluded in the performance of insurance distribution activities.

2. This article shall also apply to telephone conversations and electronic communications made within the framework of the performance of the activity referred to in Paragraph 1 that have not led to the actual conclusion of transactions.

3. For the purposes of Paragraphs 1 and 2, authorized insurance distributors shall take all reasonable measures to record telephone conversations and electronic communications carried out, transmitted or received through equipment supplied by them to an employee or associate or through equipment whose use they have authorized. Authorized insurance distributors shall take all reasonable measures to prevent employees or associates from carrying out, transmitting or receiving on private equipment telephone conversations and electronic communications that they are unable to record or copy.

4. Authorized insurance distributors shall inform clients that telephone conversations or communications between them that lead to or may lead to transactions will be recorded. This notice may be sent only once, prior to the performance of insurance distribution activities.

5. Authorized insurance distributors shall refrain from performing insurance distribution activities via telephone, if they have not sent in advance the notice referred to in Paragraph 4.

6. Orders can be sent by clients through channels other than by telephone, provided that a durable medium is used, such as post, fax, email or other documents confirming orders made by clients in the course of meetings. The content of the conversations that take place in the presence of the client can be recorded by means of minutes or written notes. These orders shall be considered equivalent to the orders received by telephone.

PART VI
DISTRIBUTION OF INSURANCE-BASED INVESTMENT PRODUCTS BY MEANS OF DISTANCE COMMUNICATION TECHNIQUES

Article 135-*undetricies*
(Distributors)

1. Authorized insurance distributors may distribute insurance-based investment products by means of distance communication techniques.

Article 135-*tricies*
(Limits to the use of distance communication techniques)

1. The distribution of insurance-based investment products by means of distance communication techniques may not be carried out and, if undertaken, must be stopped immediately, towards clients who state explicitly their opposition to their undertaking or continuation. To this end, clients are provided with express indication of the option of opposing being sent such notices in the future.

Article 135-*tricies semel*
(Distribution)

1. In the distribution of insurance-based investment products by means of distance communication techniques, authorized insurance distributors shall comply with the provisions of this Book.

Article 135-*tricies bis*
(Use of call centers)

1. Authorized insurance distributors may avail themselves of *call centers* for the remote distribution of insurance-based investment products on condition that they accept full responsibility for the actions of the operators and indicate, for each *call center*, a collaborator entered into Section E of the Register of Insurance Intermediaries referred to in Article 109 of the Private Insurance Code, vested with the responsibility to coordinate and control the related activities.

2. Authorized insurance distributors shall ensure that the call center operators:

a) fulfill the knowledge and competence requirements laid down in Article 135-*vicies semel*;

b) at the time of first contact, give their identifier or name, or the name of the insurance company and authorized insurance distributor;

c) give answers that are uniform with each other and conformant with the contractual conditions.

3. Authorized insurance distributors shall ensure moreover that the client:

a) may, upon request, be connected to the person responsible for the call center's coordination and control;

b) receives information in Italian and in a correct, exhaustive and easily understandable manner.

Article 135-*tricies ter*
(Internet site and social-network profiles of authorized insurance distributors)

1. Without prejudice to the provisions of Article 135-*tricies semel*, in the case of distribution of insurance-based investment products on the *Internet*, the website, the social network profiles of the authorized insurance distributor and any applications used for the insurance distribution activity shall contain in the *home page*, or proper page directly accessible from the *home page*, in a clear and visible manner, the following information:

a) identifier of the authorized insurance distributor, registration number in the Register of Insurance Intermediaries referred to in Article 109 of the Private Insurance Code and address of the Internet site where the registration details can be verified;

b) registered office and possible operating centers;

c) telephone number, telefax number, email address and, where applicable, certified email address;

d) that the distributor is subject to Consob's supervision;

e) address for submission of complaints and indication of the clients' right to avail themselves of out-of-court dispute resolution bodies as provided for by the legislation in force.

BOOK X
PROVISIONS ON ETHICAL OR SOCIALLY RESPONSIBLE FINANCE

Article 136
(*Disclosure obligations*)

1. Without prejudice to the provisions of the regulations in force, in the prospectus drafted according to the schemes referred to in Annex 1B of the regulations adopted with Resolution 11971 of May 14, 1999, and subsequent amendments and in the contracts referred to in Article 37 of this Regulation, relating to products and services qualified as "ethical" or "socially responsible", qualified parties and insurance companies shall provide the following information:

a) the objectives and characteristics based on which the product or service is qualified as ethical or socially responsible;

b) the general criteria for the selection of financial instruments based on the objectives and of the characteristics referred to in Letter *a*);

c) any policies and objectives that may be pursued in exercising the voting rights related to the financial instruments held in the portfolio;

d) the possible destination of income generated by the products offered and services rendered to social or environmental initiatives and the relative measurement;

e) any procedures adopted to ensure the pursuit of the objectives referred to in Letter *a*), including the existence of specialised bodies instituted within the qualified parties and insurance companies and the relative functions;

f) adherence to codes of self-regulation promoted by specialised parties.

2. A brief description of the information referred to in Paragraph 1 must be made available on the website of the qualified parties and insurance companies.

Article 137
(*Reporting obligations*)

1. Without prejudice to the provisions of the regulations in force, at least in the final report of the year relating to products and services qualified as "ethical" or "socially responsible", qualified bodies and insurance companies shall provide the following, with reference to the preceding twelve months:

a) a description of the management of general criteria for the selection of the financial instruments identified pursuant to Article 136, Paragraph 1, letter *b*);

b) information on the possible exercise of voting rights related to the financial instruments held in the portfolio;

c) information on the possible destination of income generated by the products offered and services rendered to social or environmental initiatives and the relative measurement;

2. A summary of the information referred to in Paragraph 1 shall be made available on the website of the qualified parties and insurance companies.

BOOK XI

FINANCIAL ADVISOR REGISTER AND ACTIVITIES

PART I
PRELIMINARY PROVISIONS

Article 138
(*Definitions*)

1. In this Book, the following are understood as indicated:

a) "door-to-door selling": the promotion and public placement of financial instruments, investment services and activities referred to in Article 30 of the Consolidated Law on Finance;

b) "Ministerial Regulation referred to in Article 18-*bis*": the regulation adopted by the Minister of Economy and Finance pursuant to Article 18-*bis*, Para. 1, of the Consolidated Law on Finance;

c) "Ministerial Regulation referred to in Article 18-*ter*": the regulation adopted by the Minister of Economy and Finance pursuant to Article 18-*ter*, Paragraphs 1 and 2 of the Consolidated Law on Finance;

d) "Ministerial Regulation referred to in Article 31": the regulation adopted by the Minister of Economy and Finance pursuant to Article 31, Paragraph 5, of the Consolidated Law on Finance;

e) The "Body" or "OCF" (in the Italian acronym): the Body of Financial Advisors, i.e., the Supervisory Body for the Single Register of Financial Advisors referred to in Article 31, Paragraph 4 of the Consolidated Law on Finance;

f) "register": the single register referred to in Article 31, Paragraph 4 of the Consolidated Law on Finance;

g) "memorandum of understanding": the memorandum adopted between the Body of Financial Advisors and CONSOB pursuant to Article 1, Paragraph 41, of Law 208 of December 28, 2015;

h) "financial advisors": independent financial advisors, financial advice companies and financial advisors qualified for door-to-door selling;

i) "independent financial advisor": the natural person referred to in Article 18-*bis*, Para. 1, of the Consolidated Law on Finance;

l) "financial advice company": the legal person referred to in Article 18-*bis*, Para. 1, of the Consolidated Law on Finance;

m) "financial advisor qualified for door-to-door selling": the natural person referred to in Article 1, Para. 5-*septies*.3, of the person referred to in Article 18-*bis*, Para. 1, of the

Consolidated Law on Finance;

n) "qualified parties": the parties that must use financial advisors qualified for door-to-door selling in compliance with Part II, Title II, Chapter IV of the person referred to in Article 18-*bis*, Para.1, of the Consolidated Law on Finance and with the provisions issued on the basis of this law;

o) "evaluation tests": the evaluation tests referred to in Articles 18-bis, Para. 1 and 31, Para. 5 of the person referred to in Article 18-*bis*, Para.1, of the Consolidated Law on Finance and the simplified evaluation test referred to in Article 150;

p) "contribution due to the Body": the contribution provided for by Article 31, Para. 4, of the person referred to in Article 18-*bis*, Para.1, of the Consolidated Law on Finance;

q) "investment advice": the investment service referred to in Article 1, Para. 5, Letter *f*) and Para. 5-*septies*, of the person referred to in Article 18-*bis*, Para.1, of the Consolidated Law on Finance;

r) "significant parties": employees of the independent financial advisor or financial advice company, as well as every other natural person whose services are available to and under the control of the independent financial advisor or financial advice company and who are involved in the provision of advice services and the activity of advice by this advisor;

s) "client": natural or legal person provided with investment or ancillary services;

t) "professional client": private professional clients who meet the requirements referred to in Annex 3 of this Regulation and the public professional clients who meet the requirements referred to in the regulations issued by the Ministry of Economy and Finance pursuant to Article 6, Para. 2-*sexies*, of the Consolidated Law on Finance;

u) "retail client": clients that are not professional clients;

***u-bis*) "sustainability preferences": the choice provided for by Article 2, point 7 of Regulation (EU) 2017/565**[78]**.**

PART II
THE BODY OF FINANCIAL ADVISORS

Article 139
(*Keeping the register*)

1. In keeping the single register referred to in Article 31, Paragraph 4 of the Consolidated Law on Finance, the Body of Financial Advisors shall:

78 Letter inserted with Resolution no. 22430 of 28.7.2022.

a) organise the registration, subject to prior verification of the necessary requirements, the refusal of registration due to lack of necessary requirements and removal from the register, notifying the interested parties in the cases and ways provided for by law or by the regulations adopted by the Body, as well as changes to the details in the register;

b) issue certificates of registration on and **of** removal from the register[79];

c) perform any other activities necessary for the purposes of registration on the register, including calling and carrying out the evaluation tests;

d) adopt its own provisions in order to ensure the efficient performance of its functions;

e) make public the provisions adopted pursuant to Letter *d*) that are of significance externally according to the indications of the memorandum of understanding agreed with CONSOB, indicating, inter alia, the terms of the proceedings for which it is responsible;

f) updates the register promptly on the basis of measures adopted by the judicial authority and by the same Body of Financial Advisors towards registered **and removed** entities[80];

g) verifies the continuity of the requirements prescribed for registration.

Article 140
(*The Body's supervision of financial advisors*')

1. The Body shall supervise financial advisors to ensure compliance with applicable regulations and the protection of investors and the safeguarding of confidence in the financial system, using the powers referred to in Article 31 of the person referred to in Article 18-*bis*, Para.1, of the Consolidated Law on Finance.

2. The Body shall adopt every organisational measure necessary to ensure the protection of investors, as well as the impartiality, autonomy and independence of the supervisory activity undertaken for this purpose.

3. The Body shall formulate in writing, apply and maintain an effective policy for the management of conflicts of interest, in order to:

a) identify, for the activity performed, the circumstances that generate or could generate conflicts of interest;

b) define the procedures to be followed and measures to be taken to prevent or to manage conflicts of interest. These procedures and measures shall ensure that, even in the presence of a conflict of interest of employees or members of the Body, the Body performs its activity

79 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "certificates of registration on and" added the word: "of".

80 Letter thus amended by Resolution no. 22430 of 28.7.2022, which after the words: "towards registered" added the words: "and removed".

independently and with impartiality.

4. The employees and the members of the Body shall notify its Board of Statutory Auditors, according to the methods defined by the procedures referred to in Paragraph 3, of every situation of potential conflict of interest and potential prejudice of the independence and impartiality of the activity undertaken.

Article 141
(*General requirements for the organisation of the Body*)

1. For the purposes of the proper performance of the functions referred to in Articles 31 of the Consolidated Law on Finance, and 139 and 140 of this Regulation and in order to allow CONSOB to perform its supervisory activities, with regard to the Body, pursuant to Articles 31- *bis* of the Consolidated Law on Finance and 142 of this Regulation, the Body shall adopt, apply and maintain:

a) solids governance arrangements, including decision-making processes and an organisational structure that regulate in a clear and documented manner the hierarchy and the division of functions and responsibilities;

b) suitable internal control mechanisms to ensure compliance with the decisions and procedures adopted;

c) an effective system of disseminating its provisions on financial advice activities, in accordance with Article 139, Paragraph 1, Letter *e*);

d) procedures to ensure that employees are provided with suitable qualifications, knowledge and skills for the performance of their assigned tasks and functions and, in particular, that the members of the Body responsible for supervision and sanctions possess specific professional requirements of independence and good repute, established in the Statute;

e) procedures for the preventive verification of the lawfulness of its activities;

f) procedures that ensure, within the scope of the sanction proceedings, compliance with the adversarial principle, knowledge of investigation proceedings, making records and the distinction between investigation functions and decision-making functions;

g) adequate systems and procedures to safeguard the security, integrity and confidentiality of information, taking into account the nature of this information;

h) procedures that allow CONSOB to be sent promptly any data, news, proceedings and documents that it requests;

i) specific procedures for receiving reports of acts or facts that may constitute an infringement of the rules governing the activities carried out by financial advisors, in compliance with the confidentiality and protection of the reporting party. The information contained in the reports, where relevant, is used exclusively in the performance of supervisory functions;

l) a code of conduct for employees and members.

2. The Body shall monitor and assess the adequacy and effectiveness of the requirements outlined in this article and shall take appropriate measures to remedy any shortcomings.

Article 142
(*CONSOB supervision of the Body*)

1. CONSOB shall verify the adequacy of the organisational structure and procedures adopted by the Body for the performance of its functions.

2. Without prejudice to the provisions of Article 31-*bis*, Paragraph 2, of the Consolidated Law on Finance, the Body shall promptly notify CONSOB of the proceedings and the most important events relating to the performance of its functions as specified in the memorandum of understanding.

3. The Body shall notify CONSOB monthly of the number of reports received with regard to financial advisors, the number of precautionary and disciplinary measures adopted and the number of filed reports.

4. The Board of Statutory Auditors shall without delay notify CONSOB of all acts or facts of which it becomes aware in the performance of its duties that may constitute an irregularity in the management of the Body.

Article 143
(*Information between CONSOB and the Body*)

1. CONSOB and the Body shall notify one another immediately of circumstances of significance in the performance of supervisory activities for which the other party is responsible.

Article 144
(*Handling of complaints against the measures of registration on, removal from and readmission to the register adopted by the Body)*

1. The interested party may submit a complaint against the measures relating to registration on, removal from and readmission to the register adopted by the Body to CONSOB within thirty days from the date of delivery of the notice performed in accordance with the Body's own regulations. Where it identifies an irregularity that can be remedied, CONSOB shall assign the appellant a compliance deadline and, should the appellant fail to meet this deadline, shall declare the complaint inadmissible. CONSOB shall formulate its observations within sixty days of receipt of the complaint.

2. Where the complaint is not manifestly unfounded, CONSOB shall notify the party concerned and the Body of the start of examination of the circumstances that form the subject of the complaint. As a result of the investigation, after evaluation of any observations presented by the Body on the content of the complaint, CONSOB shall promptly inform the concerned party and the Body of its decisions. In the following thirty days, the Body shall notify CONSOB and the party concerned of any measures that are taken. The proceedings are suspended for a period of time established by CONSOB for the formulation of the observations by the Body.

Article 145
(*The requirements of representativeness of professional associations of independent financial advisors, financial advice companies, financial advisors qualified for door-to-door selling*

and qualified parties)

1. Independent financial advisors include associations:

   a) that are established by public deed or certified private agreement, have been operating for at least three years and have the overriding purpose of protecting the professional interests of associates. Any amendments to the bylaws and the name of the association, made in the three-year period considered, shall not be taken into account if they do not alter the purpose of the association;

   b) whose associates include exclusively independent financial advisors registered in the relative section of the register;

   c) that demonstrate that they represent at least ten per cent of the total number of registered parties in the relative section. The reference data shall be valued as of December 31 of the year preceding formalisation of the motion to assess the existence of requirements;

   d) that have the exclusive power of attorney to represent the individual associates registered in the relative section of the register kept by the Body.

2. Financial advice companies include associations:

   a) that are established by public deed or certified private agreement, have been operating for at least three years and have the overriding purpose of protecting the professional interests of associates. Any amendments to the bylaws and the name of the association, made in the three-year period considered, shall not be taken into account if they do not alter the purpose of the association;

   b) whose associates include predominantly financial advice companies that use independent financial advisors totalling no less than ten percent of the independent financial advisors that operate in financial advice companies or that are used by the company, registered in the relative section of the register. The reference data shall be taken as of December 31 of the year preceding formalisation of the motion to assess the existence of requirements;

   d) that have the exclusive power of attorney to represent the individual associates registered in the relative section of the register kept by the Body.

3. Financial advisors qualified for door-to-door selling include associations:

   a) that are established by public deed or certified private agreement, have been operating for at least three years and have the overriding purpose of protecting the professional interests of associates. Any amendments to the bylaws and the name of the association, made in the three-year period considered, shall not be taken into account if they do not alter the purpose of the association;

   b) whose associates include exclusively financial advisors qualified for door-to-door selling registered in the relative section of the register;

   c) whose associates total no less than ten percent of the number of financial advisors qualified

for door-to-door selling registered on the register. The reference data shall be taken as of December 31 of the year preceding formalisation of the motion to assess the existence of requirements;

d) that have the exclusive power of attorney to represent the individual associates registered in the relative section of the register kept by the Body.

4. Qualified parties include associations that:

a) that are established by public deed or certified private agreement, have been operating for at least three years and have the overriding purpose of protecting the professional interests of associates. Any amendments to the bylaws and the name of the association, made in the three-year period considered, shall not be taken into account if they do not alter the purpose of the association;

b) whose associates include predominantly qualified parties and financial intermediaries that use financial advisors qualified for door-to-door selling totalling no less than ten percent of the number registered in the relative section of the register.. The reference data shall be taken as of December 31 of the year preceding formalisation of the motion to assess the existence of requirements;

c) that have the exclusive power of attorney to represent individual associates.

5. The Body shall maintain statutory provisions suitable to ensure that its constituent professional associations are adequately represented for each section of the register.

6. In the report referred to in Article 31-*bis*, Paragraph 3 of the Consolidated Law on Finance, the Body shall indicate the associations that, as of December 31 of the reference year, have acquired, maintained or lost the role of associate.

PART III
REGULATION OF THE REGISTER

Article 146[81]
(*Single register of financial advisors*)

81 Article 3, paragraph 4 of Resolution no. 22430 of 28.7.2022 provides that: "The changes made by this Resolution to Articles 146 and 153, paragraph 4, of the Intermediaries' Regulation shall apply as from 1 January 2023."

1. Registered on the register, in three distinct sections, are financial advisors qualified for door-to-door selling, independent financial advisors and financial advice companies possessing the requirements listed in Article 148. The register sections also indicate the parties that have been removed.

2. For each natural person, the register lists:

a) surname and first name;

b) date and place of birth;

c) elected domicile in Italy and relative address;

d) the details of the provision of registration on the register**, the registration number and the Certified Electronic Mail (PEC) address notified**[82];

e) name of qualified parties on behalf of which the financial advisor qualified for door-to-door selling operates and has operated, with an indication of the relative periods of operation or name of the financial advice company on behalf of which the independent financial advisor performs or has performed the provision of financial advice, with indication of the relative periods of operation;

f) the details of any measures of cancellation or precautionary suspension or sanctions in place against those registered, as well as any other measure affecting the performance of their activities;

g) place of preservation - **in Italy or, in any case, accessible from Italy -** of the documents sent to the Body pursuant to Article 153[83];

h) the fact that the financial advisor qualified for door-to-door selling operates under supervision pursuant to Article 78, Paragraph 5, Letter *b)*[84];

i) the situation of "impossibility of operating" due to intervening loss of the requirements referred to in Article 148, Paragraph 2, Letters *f)* and *g)* as a result of the interruption of the professional relationship with a financial advice company**, or in case of failure by the independent financial advisors operating on their own to notify the modification to the capital requirements referred to in Article 148, paragraph 2, letter *f)***[85]**.**

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82 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "registration on the register" added the word: ", the registration number and the Certified Electronic Mail (PEC) address notified."

83 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "place of preservation" added the words: "- in Italy or, in any case, accessible from Italy -."

84 Letter thus amended with Resolution no. 21755 of 10.3.2021, which replaced the words: "81, paragraph 1, letter *c)*" with the words: "78, paragraph 5, letter *b)*".

85 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "financial advice company" added the words: ", or in case of failure by the independent financial advisors operating on their own to notify the modification to the capital requirements referred to in Article 148, paragraph 2, letter *f).*"

3. For each financial advice company, the register lists:

a) company name;

b) date of establishment;

c) registered office and, if different from the registered office, the headquarters of general management **and any other office where the activity is carried out**[86];

d) details of the provision of registration on the register**, the registration number and the Certified Electronic Mail (PEC) address notified**[87];

e) any measures of precautionary suspension or sanctions in place against the company, as well as any other measure affecting the performance of its activities;

f) place of preservation of the documents - **in Italy or, in any case, accessible from Italy -** sent to the Body pursuant to Article 153[88];

g) the names of the independent financial advisors that the company uses.

4. For parties that have been removed from the register, the date of removal and the items listed in Paragraphs 2 and 3, **excluding those listed in Paragraph 2, letter *c)*, and the Certified Electronic Mail (PEC) address,** are indicated[89].

5. It is not possible for natural persons to be registered simultaneously in the two sections of the register dedicated to independent financial advisors and to financial advisors qualified for door-to-door selling.

Article 147
(*Disclosure of documents of the Body of Financial Advisors*)

1. The Body shall make available to the public the up-to-date register using methods that ensure its widest possible dissemination, including via the internet.

2. The resolutions of registration and removal from the register, further measures to amend or add to the information on the register and other relevant provisions or acts relating to the registered parties or to the operation of the Body are published with indication of the party to which they refer

86 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "general management" added the words: "and any other office where the activity is carried out."

87 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "on the register" added the words: ", the registration number and the Certified Electronic Mail (PEC) address notified."

88 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "of the documents" added the words: "- in Italy or, in any case, accessible from Italy -."

89 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "Paragraphs 2 and 3" added the words: "excluding those listed in Paragraph 2, letter *c)*, and the Certified Electronic Mail (PEC) address."

and of the specific regulatory premise, in full or in part, on the Body website, in compliance with the provisions on personal data protection.

Article 148
(*Requirements for registration in the three sections of the register*)

1. The following are required for registration on the register in the section for financial advisors qualified for door-to-door selling:

a) possession of the requirements of good repute prescribed by the Ministerial Regulation referred to in Article 31 of the Consolidated Law on Finance and not being in any of the situations precluding registration referred to in the same law;

b) possession of the academic qualification prescribed by the Ministerial Regulation referred to in Article 31 of the Consolidated Law on Finance;

c) passing the evaluation test referred to in Article 149 or that referred to in Article 150 or that foreseen by the rules and regulations in force at the time in which the evaluation test was performed, or possession of one of the professional requirements established by the Body on the basis of evaluation criteria identified by the Ministerial Regulation referred to in Article 31 of the Consolidated Law on Finance.

2. The following are required for registration on the register in the section for independent financial advisors:

a) possession of the requirements of good repute prescribed by the Ministerial Regulation referred to in Article 18-*bis* of the Consolidated Law on Finance and not being in any of the situations precluding registration referred to in this same law;

b) possession of the academic qualification prescribed by the Ministerial Regulation referred to in Article 18-*bis* of the Consolidated Law on Finance;

c) passing the evaluation test or possessing one of the professional requirements established by the Body on the basis of evaluation criteria identified by the Ministerial Regulation referred to in Article 18-*bis* of the Consolidated Law on Finance;

d) possession of the professional experience requirements established by the Ministerial Regulation referred to in Article 18-*bis* of the Consolidated Law on Finance;

e) possession of the independence requirements prescribed by the Ministerial Regulation referred to in Article 18-*bis* of the Consolidated Law on Finance;

f) possession of the assets requirements prescribed by the Ministerial Regulation referred to in Article 18-*bis* of the Consolidated Law on Finance;

g) providing the Body with all the information it needs - including a programme of activity indicating, in particular, the content of the advice services and the organisational structure - to ensure that the independent financial advisor has adopted, at the time of registration, all the measures necessary to fulfil the obligations arising from this regulation or a certified

statement by the legal representative of the financial advice company attesting to the conclusion of a cooperation agreement with the party applying for registration, the effectiveness of which is conditional to registration by the applicant party.

3. To register on the register in the section dedicated to financial advice companies, companies must:

a) be established as a joint stock company or a limited liability company;

b) possess the requirement prescribed by the Ministerial Regulation referred to in Article 18-*ter* of the Consolidated Law on Finance;

c) provide the Body with all the information it needs - including a programme of activity indicating, in particular, the content of the advice services and the organisational structure - to ensure that the company has adopted, at the time of registration, all the measures necessary to fulfil the obligations arising from this regulation.

Article 149
(*Evaluation test*)

1. The theoretical and practical evaluation test for registration in the sections of the register for natural persons shall be convened at least annually by the Body by publication in the Official Journal of the Italian Republic, in the form of both a notice and in full on the Body's website.

2. The evaluation test must verify the actual possession by the candidates of the knowledge and skills necessary to perform the related activities**.**

3. The test shall be organised and evaluated by the Body, which shall use for this purpose examination boards made up of people with proven professional experience and adequate knowledge of evaluation test methods, for whom none of the grounds for incompatibility established by the Body apply. Each board shall be composed of at least three members, including a Chairman with proven professional expertise in matters relating to the activities carried out by the financial advisors. In any case, the majority of the members of the board must be persons not registered on the Single Register of Financial Advisors nor corporate officers or employees of qualified parties.

4. The Body shall establish the dates, locations, the methods of application for the evaluation test and the testing methods and shall publish these elements and any other information relevant to the evaluation test on its website .

5. To participate in the evaluation test, candidates must be hold an academic qualification as established by the Ministerial Regulation referred to in Article 18-bis- or by the Ministerial Regulation referred to in Article 31 of the Consolidated Law on Finance.

Article 150
(*Evaluation test for natural persons registered*
In the Single Register of Insurance and Reinsurance Intermediaries, Section A)

1. In line with the European and national regulatory framework of reference, the Body shall define

by resolution the content of the evaluation test that the natural persons registered on the Single Register of Insurance and Reinsurance Intermediaries, Section A must sit to achieve, subject to the requirements of good repute and professionalism provided for by Article 148, Para. 1, Letters *a*) and *b*), registration in the section of the register for financial advisors qualified for door-to-door selling. The evaluation test must verify the actual possession by the candidates of the knowledge and skills necessary to perform the related activities.

2. Paragraphs 3, 4 and 5 of Article 149 shall apply.

Article 151
(*Registration on the register*)

1. Subject to verification of the applicant's possession of all the requirements, the Body shall proceed with registration in the relative section of the register, including indication of the elements referred to in Article 146, Paragraphs 2 or 3.

2. The provision of conclusion of the registration process is adopted and notified within the deadline and in accordance with the procedures established by the Body under its regulations and in any case no later than six months from the submission of a complete application.

3. The application, submitted in accordance with the procedures established by the Body, shall take its date from the date of submission or, in the case of incompleteness and irregularities, from the date of rectification.

4. The registration process may be suspended by the Body, for the time required to perform investigations into the person concerned. The Body shall notify the person concerned of the start and end of the suspension.

Article 152
(*Removal from the register*)

1. The Body shall remove registered parties from the corresponding section of the register in the event of the following:

a) at the request of the party concerned;

b) the registration was obtained by submitting false statements or by any other unlawful means;

c) failure by the financial advice company to practise the activity within twelve months from registration or inactivity of the company for more than six months;

d) loss of one of the requirements for registration referred to in Article 148, with the exception of the requirement of independence;

e) failure to pay the fee due to the Authorisation;

f) death;

g) adoption of the measure to remove the person from the register.

2. The application, submitted in accordance with the procedures established by the Body, shall take its date from the date of submission or, in the case of incompleteness or irregularity, from the date of rectification.

3. The measure of removal implies the immediate cancellation from the register.

4. The case referred to in Paragraph 1, Letter *e*) applies after 45 consecutive calendar days from the expiry of the deadline set **by the Body** for the payment of the fee **due. In this case, once the aforementioned 45-day period has elapsed, the Body initiates the procedure for removal from the register and, in the related notice of initiation, it grants to the interested party another period to make the payment, warning that in the event of failure to comply by the said deadline, he/she will be removed from the related section of the register. If the aforementioned deadlines fall on a Saturday or Holiday, they are postponed until the next working day**[90].

5. The parties removed from the register pursuant to Paragraph 1 can re-apply for registration, provided that:

a) in the cases provided for in Paragraph 1, Letter *d*), they have reacquired the requirements referred to in Article 148;

b) in the cases provided for in Paragraph 1, Letter *e*), they have paid the fee due;

c) in the case provided for in Paragraph 1, Letter *g*), five years have passed from the date of notification of the resolution of removal.

6. The proceedings of removal foreseen in the cases outlined under Para. 1, Letters *a*), *b*), *c*), *d*), and *e*) shall be concluded within the deadline of ninety days established by the Body under its regulations and may be suspended, for the time necessary to perform supervisory investigations, including inspections, established by the Body with regard to the interested party. The proceedings of removal shall be suspended for the effective period of the proceedings of precautionary suspension referred to in Article 7-*septies*, Para. 1 of the Consolidated Law on Finance and of suspension from the register referred to in Article 196, Para. 1, Letter *c*) of the Consolidated Law on Finance. The Body shall notify the person concerned of the start and end of the suspension.

7. Removal from the register shall not preclude application of the penalties referred to in Article 196, Paragraph 1, of the Consolidated Law on Finance.

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90 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "deadline set" added the words: "by the Body" and after the words: "payment of the fee" added the words: "due. In this case, once the aforementioned 45-day period has elapsed, the Body initiates the procedure for removal from the register and, in the related notice of initiation, it grants to the interested party another period to make the payment, warning that in the event of failure to comply by the said deadline, he/she will be removed from the related section of the register. If the aforementioned deadlines fall on a Saturday or Holiday, they are postponed until the next working day." **Article 3, paragraph 4 of Resolution no. 22430 of 28.7.2022 provides that: "The changes made by this Resolution to Articles 146 and 152, paragraph 4, of the Intermediaries' Regulation shall apply as from 1 January 2023."**

Article 153
(*Obligations of financial advisors towards the Body*)

1. With the application for registration on the register, the applicant parties are obliged to notify the Body of the following:

a) the place of preservation **– in Italy or accessible from Italy –** of the documents referred to in Articles 160 and 178, even in the case of documents produced in digital format and preserved pursuant to Article 160, Paragraph 4[91];

b) for natural persons, domicile and residence, if different from the domicile;

c) for legal persons, the registered office and, if different from the registered office, the headquarters of the general management, as well as, where existing, **the administrative headquarters, secondary offices and any other office where the activity is carried out**[92];

d) tax code or VAT number;

e) the list of names and full details of all the corporate officers of the financial advice companies, with indication of the relative powers and of any assigned mandates**,** as well as of independent financial advisors with whom they have started or ended cooperation agreements;

f) the list of parties who hold direct and indirect interest in the capital of the financial advice company, with an indication of their respective shareholdings in absolute value and in percentage terms; for indirect shareholdings, the party through which it holds the interest;

g) an active**, personal Certified Electronic Mail (PEC) address for the exclusive use of the party concerned for communications with the Body**[93];

h) details of the insurance policy that the independent financial advisors and financial advice companies must take out pursuant to the Ministerial Regulations referred to in Articles 18-*bis* and 18-*ter* of the Consolidated Law on Finance.

2. Registered parties are obliged to notify the Body**, according to the methods set out by it,** of any changes to the information referred to in Para. 1, Letters *a*), *b*), *c*), *d*), *e*), *f*), *g*) and *h*), and in Article 146, Para. 2, Letters *a*) and *c*), and Para. 3, Letters *a*) and *c*). **Financial advice companies notify the Body that the independent financial advisors of which they avail themselves**

91 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "place of preservation" added the words: "- in Italy or accessible from Italy -."

92 Letter thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "the administrative headquarters and secondary offices" with the words: "the administrative headquarters, secondary offices and any other office where the activity is carried out."

93 Letter thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Certified Electronic Mail (PEC) address" with the words: "personal Certified Electronic Mail (PEC) address for the exclusive use of the party concerned for communications with the Body."

no longer meet the requirements for registration. Regarding the notification of the policy identifier, the related deadline runs from the day after the date of expiry indicated in the previously notified policy[94]**.**

3. Registered parties shall notify the Body within ten days**, according to the methods set out by it,** of the measures and the assumption of the role of defendant provided for by Article 7-*septies*, Para. 2, of the Consolidated Law on Finance and any change to the conditions of registration, including any period of inactivity for advice companies[95].

4. Financial advisors are obliged to provide the necessary cooperation to enable the Body to perform its functions, as well as to verify the requirements foreseen for granting and maintaining registration on the register. Financial advisors are obliged to comply with the requests referred to in Article 31, Para. 7 of the Consolidated Law on Finance[96].

Article 154
(Obligations of qualified parties and financial advice companies towards the Body)

1. Qualified parties shall notify the Body of any decrease in number of financial advisors qualified for door-to-door selling that they use as part of the requirements for registration.

2. Qualified parties shall notify the Body within thirty days**, according to the methods set out by it,** of the names of financial advisors qualified for door-to-door selling operating under supervision pursuant to Article 78, Paragraph 5, Letter *b)*, as well as any subsequent variation[97].

3. Qualified parties shall submit to the Body**, according to the methods set out by it,** the names of financial advisors qualified for door-to-door selling with which they have started or ended an employment contract as an employee, via agency or mandate in the course of the previous month[98].

4. Qualified parties shall cooperate with the Body to enable it to perform its functions and, in particular, carrying out the acts provided for by Article 31, Paragraph 7, of the Consolidated Law on Finance, as well as the ascertainment of the requirements of good repute and professionalism of

94 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "the Body" added the words: ", according to the methods set out by it," and finally added the following clauses: "Financial advice companies notify the Body that the independent financial advisors of which they avail themselves no longer meet the requirements for registration. Regarding the notification of the policy identifier, the related deadline runs from the day after the date of expiry indicated in the previously notified policy."

95 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "ten days" added the words: ", according to the methods set out by it," and removed the word "significant."

96 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which removed the words: "of good repute and professionalism."

97 Paragraph first amended with Resolution no. 21755 of 10.3.2021, which replaced the words: "81, Paragraph 1, Letter *c*)" with the words: "78, Paragraph 5, Letter b)" and then with Resolution no. 22430 of 28.7.2022, which after the words: "thirty days" added the words: ", according to the methods set out by it,".

98 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "to the Body" added the words: ", according to the methods set out by it,".

applicants for registration and registered parties.

5. This Article shall also apply to financial advice companies.

PART IV
ACTIVITIES OF FINANCIAL ADVISORS QUALIFIED FOR DOOR-TO-DOOR SELLING

Article 155
(*Scope of activity*)

1. Financial advisors qualified for door-to-door selling shall perform the tasks and fulfil the obligations demanded of them pursuant to the provisions governing the activities of qualified parties, on the basis of and limited to their assignment.

Article 156
(*Method of professional updating*)

1. Without prejudice to the provisions of Articles 78, financial advisors qualified for door-to-door selling must keep professionally updated according to the procedures adopted by the intermediary on behalf of which they operate[99].

Article 157
(*Incompatibility*)

1. Without prejudice to the provisions of Article 146, Paragraph 5, the activity of financial advisors qualified for door-to-door selling is incompatible with:

a) the role of the statutory auditor or his associate pursuant to Article 2403-*bis* of the Italian Civil Code, responsible for or assigned to internal audits within qualified parties or financial advice companies;

b) the role of administrator, employee or associate of a financial advice company or a qualified party not belonging to the same group as the qualified party on behalf of which the financial advisor operates;

c) the role of a shareholder of a financial advice company;

d) the role of partner, administrator, statutory auditor or employee of the party assigned the statutory audit of the qualified party on behalf of which the advisor operates;

e) registration on the Single Register of Stockbrokers;

99 Paragraph thus amended with Resolution no. 21755 of 10.3.2021, which replaced the words: "of Articles 78 to 82" with the words: "of Article 78" and the words "through participation in periodic courses, at the end of which they are issued with certificates of attendance" with the words: "according to the procedures adopted by the intermediary on behalf of which they operate".

f) any other assignment or activity that is severely inconsistent with its proper performance.

Article 158
(*General rules of conduct*)

1. Financial advisors qualified for door-to-door selling must act with diligence, fairness and transparency. They must comply with the laws and regulations relating to their activities, including the provisions adopted by the Body pursuant to Article 139 and the provision of the category of the qualified party on behalf of which they operate. They must also comply with the procedures of the qualified party that has awarded them the assignment.

2. Financial advisors qualified for door-to-door selling are obliged to maintain the confidentiality of information acquired from clients or potential clients or that they hold in any case as part of their activities, except with regard to the party for whom they operate and the party whose investment services and activities and financial instruments or products are offered, as well as in the cases referred to in Article 31, Para. 7 of the Consolidated Law on Finance and in any other case in which they are legally obliged or permitted to disclose it. It is in any case forbidden to use such information for anything other than strictly professional interests.

Article 159
(*Rules of presentation and conduct with regard to clients or potential clients*)

1. At the time of first contact, financial advisors qualified for door-to-door selling shall:

a) give clients or potential clients a copy of a declaration drawn up by the qualified party, detailing the identifiers of the party, the details of registration in the register and the details of the financial advisor qualified for door-to-door selling, as well as the domicile to which to send the declaration of withdrawal as provided for in Article 30, Paragraph 6, of the Consolidated Law on Finance;

b) give clients or potential clients a copy of a notice that conforms to the model in Annex 4.

2. Financial advisors qualified for door-to-door selling shall give clients or potential clients the statement referred to in Para. 1, Letter *a*), including in the event of changes to the information it contains.

3. Financial advisors qualified for door-to-door selling shall fulfil the obligations of disclosure towards clients or potential clients in a clear and comprehensive way and shall verify that they have understood the essential characteristics of the proposed transaction.

4. Financial advisors qualified for door-to-door selling shall verify the identity of clients or potential clients before collecting subscriptions or provisions. Advisors shall issue clients or potential clients with copies of contracts, provisions and of any other act or document they sign.

5. Financial advisors qualified for door-to-door selling may receive from clients or potential clients, for subsequent immediate transmission, exclusively:

a) bank or postal cheque, bank drafts or postal orders payable to or transferred to the qualified party on behalf of which they operate or to the party whose investment services and

activities and financial instruments or products are offered, with a due non-transferability clause;

b) payment orders and similar documents that have as a beneficiary one of the parties indicated in the Letter *a*);

c) registered financial instruments or financial instruments to order, payable to or transferred to the party providing the investment services and activities on offer.

6. Financial advisors qualified for door-to-door selling may not receive any form of compensation or financing from clients or potential clients **or accept or contribute to the generation to their own advantage of present or future, monetary or non-monetary benefits, however they may be handed out by the client or potential client**[100]**.**

7. Financial advisors qualified for door-to-door selling cannot use the online access codes to reports pertaining to clients or potential clients or in any case connected to them, unless provided for by the contract drawn up by the intermediary with the client and always provided that:

a) the client has given prior, express and specific written consent for the use of the codes by the advisor;

b) the codes are used in such a way as to make their use by the advisor evident to the intermediary;

c) use by the advisor leads to the automatic disabling of the codes.

8. *...omissis...*[101]

Article 160
(*Preservation of documents*)

1. Financial advisors qualified for door-to-door selling are obliged to preserve a copy of the following documents in an ordered fashion for at least five years, in the place indicated pursuant to Article 153:

a) contracts and other documents signed door-to-door through them by clients or potential clients;

b) correspondence with the parties on behalf of which the advisor himself has operated door-to-door over time.

2. As an alternative to the paper format, the documents referred to in Paragraph 1 may also be stored on durable electronic media or in other equivalent technical form, on the condition that it be easily recovered and copied exactly.

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100 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "potential clients" added the words: "or accept or contribute to the generation to their own advantage of present or future, monetary or non-monetary benefits, however they may be handed out by the client or potential client."

101 Paragraph repealed with Resolution no. 21755 of 10.3.2021.

3. The deadline of five years foreseen for the preservation of documents and recordings shall run from the date of their creation.

4. The documents produced in digital format can be preserved by the intermediaries on behalf of which financial advisors qualified for door-to-door selling operate, provided that the advisors are always able to recover the documents easily and make exact copies.

PART V
ACTIVITIES OF INDEPENDENT FINANCIAL ADVISORS AND FINANCIAL ADVICE COMPANIES

TITLE I
GENERAL PROVISIONS

Article 161
(*Scope of application*)

1. In this part, "financial instruments" shall be understood to mean only those securities and units of authorities of collective investment undertakings in accordance with Articles 18-*bis* and 18-*ter* of the Consolidated Law on Finance.

Article 162
(General rules of conduct)

1. In the provision of investment advice services **and ancillary services**, independent financial advisors and financial advice companies shall act honestly, fairly and professionally in the best interests of their clients**. They shall comply with the legislative and regulatory provisions applicable to their activity, therein including the provisions adopted by the Body. In the provision of investment advice services, they shall comply with the following principles in particular**[102]:

a) all information, including promotional and advertising messages, sent by independent financial advisors and by financial advice companies to clients or potential clients shall be accurate, clear and not misleading. Advertising and promotional messages shall be clearly identifiable as such.

b) independent financial advisors and financial advice companies shall evaluate a reasonable range of financial instruments available on the market, which must be sufficiently varied in type and product issuer or supplier, in order to ensure that the investment objectives of the client are duly satisfied;

102 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "services" added the words: "and ancillary services" and replaced the words: "and shall comply with the following principles in particular" with the words: "They shall comply with the legislative and regulatory provisions applicable to their activity, therein including the provisions adopted by the Body. In the provision of investment advice services, they shall comply with the following principles in particular."

c) independent financial advisors and financial advice companies shall define and implement a selection process to assess and compare a reasonable range of financial instruments available on the market. The selection process shall include the following elements:

1) the number and variety of financial instruments considered shall be proportionate to the scope of the advice service provided;

2) the number and variety of financial instruments considered are adequately representative of the financial instruments available on the market;

3) the criteria for the selection of the various financial instruments shall include all aspects of interest, such as risk, costs and complexity as well as the characteristics of the clients of independent financial advisors and financial advice companies, and shall ensure the objective selection of instruments that could be recommended;

d) independent financial advisors and financial advice companies cannot accept fees, commissions or other benefits monetary or non-monetary paid or provided by third parties or by a person acting on behalf of third parties, with the exception of the provision of investment research services by third parties, where they are received in exchange for direct payments by the independent financial advisors and financial advice companies using their own resources;

e) independent financial advisors and financial advice companies shall avoid remuneration or assessment of the performance of their personnel in ways that are incompatible with their duty to act in the best interest of their clients. In particular, they shall not adopt provisions on remuneration or other provisions that could encourage personnel to recommend a particular financial instrument to retail clients if the independent financial advisors and financial advice companies can recommend a different instrument more suited to the needs of the client;

f) independent financial advisors and financial advice companies shall adopt appropriate provisions to obtain the necessary information on the financial instrument and on its approval process, including its reference market, and to understand the characteristics and the reference market identified for each financial instrument;

g) independent financial advisors and financial advice companies shall acquire from clients or potential clients the information necessary for the purpose of their classification as retail or professional clients or potential clients, in order to recommend suitable financial instruments to the client or potential client;

h) independent financial advisors and financial advice companies shall assess, on the basis of the information acquired from the clients, the suitability of the recommended transactions;

i) independent financial advisors and financial advice companies shall establish and maintain internal procedures and appropriate records;

l) independent financial advisors and financial advice companies shall comply with the laws and regulations relating to their activities, including the provisions adopted by the Body pursuant to Article 139.

2. Independent financial advisors and financial advice companies are obliged to maintain the confidentiality of information acquired from clients or potential clients or that they hold in any case as part of their activities, except for the cases provided for in Article 31, Para. 7 of the Consolidated Law on Finance and in any other case in which the law permits or requires its disclosure. It is in any case forbidden to use such information for anything other than strictly professional interests.

3. Independent financial advisors and financial advice companies may not receive special or general powers of attorney to perform transactions or powers of attorney to dispose of sums or securities belonging to clients **or any financing from the same**[103].

Article 163
(*Incompatibility*)

1. Without prejudice to the provisions of Article 146, Paragraph 5, the activity of independent financial advisor and financial advice company is incompatible with:

a) the role of stockbroker;

b) the practice of insurance intermediation referred to in Article 109, Para. 2, Letters *a*), *c*) and *e*), of Legislative Decree 209 of December 7, 2005;

c) the practice of financial dealer referred to in Article 128-*quater* of the Consolidated Banking Law;

f) any other assignment or activity that is severely inconsistent with its proper performance.

Article 164
(Professional updating)

1. Independent financial advisors listed in the Register, whether they are actually operative or not, and without prejudice to the cases of suspension referred to in paragraph 2-bis, are obliged to keep professionally updated consistently with the nature and the characteristics of the services provided to clients, in compliance with the provisions of Part 20, letter b) of ESMA/2015/1886 Guidelines[104].

2. To this end, the independent financial advisors referred to in paragraph 1 shall participate, at least once every twelve months, in training courses lasting at least thirty hours, held by parties with at least five years' experience in economic, financial, technical and legal training, relevant to the provision of investment advice services. A test for the assessment of the acquired knowledge shall be taken at the end of the course, with the issue, in case of successful outcome, of a certificate attesting completion of the course. **Professional updating courses shall be held from 1 January of the year following the year of registration in the single register of financial advisors**[105].

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103 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "clients" added the words: "or any financing from the same."

104 Paragraph thus replaced with Resolution no. 21755 of 10.3.2021.

105 Paragraph thus replaced with Resolution no. 21755 of 10.3.2021, and then thus amended with Resolution no.

2-bis. The obligations of professional updating shall be suspended in the event of one of the following:

a) pregnancy, from the beginning of the third month preceding the expected date of birth to one year after the actual date of birth, without prejudice to further exemptions for proven health reasons, as well as for the fulfilment of parenting duties in the case of parents with children under 18;

b) serious illness or injury, limited to the duration of the impediment;

c) continued absence for more than six months, for reasons other than those referred to in Paragraphs *a*) and *b*).

The independent financial advisors shall promptly notify the Body – including through the financial advice company on behalf of which they operate - of the existence of one of the causes for suspension and of termination thereof[106].

2-ter. Before resuming the activity in the cases referred to in paragraph 2-bis, for the purpose of compliance with the professional updating requirements, the persons referred to in paragraph 1 shall participate in a training course lasting at least thirty hours. If the activity is resumed in the same year, or in the year after suspension, any training hours possibly taken before the suspension remain valid. New professional updating obligations become effective as from 1 January of the year after the year in which the activity has been resumed[107].

3. Financial advice companies shall adopt appropriate procedures to ensure adequate professional updating for the independent financial advisors operating on their behalf, in compliance with the provisions laid down in the preceding paragraphs[108].

4. *...omissis...*[109]

4-*bis.* The independent financial advisors and the financial advice company shall keep for at least five years the documentation attesting actual compliance with the obligation of professional

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22430 of 28.7.2022, which added, at the end, the following clause: "Professional updating courses shall be held from 1 January of the year following the year of registration in the single register of financial advisors."

106 Paragraph added with Resolution no. 21755 of 10.3.2021. Article 2, Paragraph 3 of Resolution no. 21755 of 10.3.2021 provides that: "3. The independent financial advisors shall notify– including through the financial advice company on behalf of which they operate – the Supervisory Body for the Single Register of Financial Advisors, within 90 days from the date of entry into force of this Resolution, of any causes of suspension referred to in Article 164, paragraph 2-*bis*, of the regulation establishing the provisions for implementation of Legislative Decree no. 58 of February 24, 1998 on intermediaries, adopted with Resolution no. 20307 of 15 February 2018, as amended by this Resolution, having occurred before the date of entry into force of this Resolution and still producing its effects on such date."

107 Paragraph added with Resolution no. 21755 of 10.3.2021

108 Paragraph thus replaced with Resolution no. 21755 of 10.3.2021

109 Paragraph repealed with Resolution no. 21755 of 10.3.2021.

updating [110].

5. The Body shall supervise compliance with the obligation of professional updating, requiring submission, including periodically, of copies of the documentation referred to in paragraph 4-*bis*[111].

6. *...omissis...*[112]

TITLE II
INFORMATION, CONTRACTS AND RECOMMENDATIONS

Article 165
(*Rules of presentation. Information on independent financial advisors and financial advice companies and their services*)

1. Clients or potential clients shall be provided in a timely manner with appropriate information on the independent financial advisor or financial advice company and related services and on the financial instruments and proposed investment strategies. Independent financial advisors and financial advice companies shall provide clients or potential clients, in good time before they are bound by an agreement for the provision of the investment advice service or before the provision of this service, whichever happens earlier, the following information on the investment contract or service:

a) the first name and surname, domicile and the address of the independent financial advisor or name and registered office of the financial advice company and contact details necessary to allow the customer to communicate with them effectively and the first name and surname of the independent financial advisor that will provide the financial advice on behalf of the company;

b) the languages in which the client can communicate with the independent financial advisor or with the financial advice company and receive documents and other information from them;

c) the methods of communication that must be used between the independent financial advisors or financial advice companies and the client;

d) the statement declaring that the independent financial advisor or the financial advice company are registered in the appropriate section of the register kept by the Body, the date

110 Paragraph added with Resolution no. 21755 of 10.3.2021. Article 2, Paragraph 2 of Resolution no. 21755 of 10.3.2021 provides that: "2. The obligation to keep the documentation relating to the actual compliance with the professional updating provided for by Article 164, paragraph 4-bis, of the regulation establishing the provisions for implementation of Legislative Decree no. 58 of February 24, 1998 on intermediaries, adopted with Resolution no. 20307 of 15 February 2018, as amended by this Resolution, refer to the professional updating activities carried out after the entry into force of this Resolution."

111 Paragraph thus amended with Resolution no. 21755 of 10.3.2021, which replaced the words: "regular submission of copies of the certificates issued at the end of training courses" with the words ", including periodically, of copies of the documentation referred to in paragraph 4-bis".

112 Paragraph repealed with Resolution no. 21755 of 10.3.2021.

and reference details of the registration and the contact name and address of the Body;

e) the nature, frequency and programme of the reports on the execution of the service that the financial advisors or autonomous companies of financial advice provide to the client;

f) a description, possibly in the form of a summary, of the policy on conflicts of interest, implemented in accordance with Article 177;

g) at the request of the client, further details on this policy on conflicts of interest, provided on a durable medium or via a website (when this does not constitute a durable medium), subject to compliance with the conditions established in Article 174;

h) a description of the service provided by the independent financial advisor or financial advice company and of the methods of provision of the investment advice service;

***h-bis*) where relevant, the sustainability factors considered in the course of the selection of the financial instruments[113];**

i) any professional activities in addition to investment advice provided by the independent financial advisor or by the financial advice company, with an indication of their distinctive features and, where envisaged, their specific remuneration. With reference to the aforementioned additional activities, the independent financial advisor or financial advice company shall inform clients that such activities are not subject to the supervision by CONSOB or the Body and must specify any party responsible for the relative supervisory functions;

l) any periodic assessment of the adequacy of the recommended financial instruments.

2. Independent financial advisors and financial advice companies that focus on certain categories or a specific range of financial instruments shall comply with the following requirements:

a) they shall advertise themselves on the market in a manner intended to attract only clients who prefer these categories or range of financial instruments;

b) they shall ask clients to indicate whether they are interested in receiving advice exclusively within the specific category or range of financial instruments;

c) prior to the provision of the service, they shall ensure that it is suitable for the new client, insofar as it satisfies the requirements and objectives of the client, and that the range of financial instruments is suitable for the client. If this is not the case, the independent financial advisors and financial advice companies shall not provide this service to the client in question.

3. Independent financial advisors and financial advice companies shall inform clients that they can submit reports and complaints to the Body.

113 Letter inserted with Resolution no. 22430 of 28.7.2022.

4. The information referred to in the preceding paragraphs shall be provided in a comprehensible form, in order that clients or potential clients may reasonably understand the nature of the investment service and the specific type of financial instrument being offered, as well as the connected risks and, consequently, allow them to make fully informed investment decisions.

Article 166
(*Investment advice agreement*)

1. Independent financial advisors and financial advice companies shall provide investment advice services to retail clients on the basis of a written agreement that establishes at least the following:

a) the content of the services provided by the independent financial advisor or financial advice company and of the methods of provision of the service;

b) the rights of the client;

c) the types of financial instruments involved;

d) whether there is the envisaged provision of personalised recommendations of the financial products other than financial instruments referred to in Article 1, Paragraph 2, of the Consolidated Law on Finance of the investment services or ancillary services referred to in Article 1, Paragraphs 5 and 6 of the Consolidated Law on Finance;

e) whether there is the envisaged provision of non-personalised recommendations and the methods with which the advisor must warn clients that the recommendation is not based on assessment of suitability or their characteristics;

f) whether there is the envisaged obligation for clients to notify the advisor of the transactions in financial instruments that they have actually undertaken of those that the advisor has recommended;

g) in the cases referred to in Paragraph *f*), whether the advisor is obliged to notify the client of losses incurred by the financial instruments recommended, the loss threshold above which notification is envisaged and the deadline for fulfilling the relative obligation;

h) whether the advisor is obliged to update recommendations to clients and with what frequency;

i) the remuneration for the investment advice service or, if this cannot be determined exactly, the objective criteria for its determination, as well as the relative methods of payment;

l) the duration, where applicable, and the methods of renewal of the contract, as well as the methods to be adopted for amending the contract;

m) the methods of communication that must be used between the financial advisor and the client for the provision of investment advice services, including indication of whether electronic communication is permitted;

n) the frequency and content of the documents to be given to the client in reporting the

activity performed;

o) the procedures for the out-of-court resolution of disputes, defined pursuant to Article 32-*ter* of the Consolidated Law on Finance.

Article 167
(*Acquiring information from clients*)

1. Independent financial advisors and financial advice companies shall not create ambiguity or confusion over their responsibilities in the suitability assessment process for investment services or financial instruments in compliance with Article 171. In assessing suitability, independent financial advisors and financial advice companies shall inform clients or potential clients in a clear and simple manner of the fact that the assessment is performed in order to allow independent financial advisors and financial advice companies to act in the best interest of their clients. When the investment advice service is performed fully or in part via an automated or semi-automated system, the independent financial advisors and financial advice companies shall be responsible for performing suitability assessment and this responsibility shall not be reduced by the use of an electronic system to formulated personalised recommendations.

2. Independent financial advisors and financial advice companies shall determine the range of information that must be collected from clients, given the characteristics of the investment advice service to be provided to them. Independent financial advisors and financial advice companies shall obtain from clients and potential clients the information they need to understand the essential characteristics of the clients and create a reasonable basis for determining, given the nature and importance of the service provided, whether the specific transaction to be recommended satisfies the following criteria:

a) it meets the objectives of the investment, including the risk tolerance **and any sustainability preferences of the client**[114];

b) is of such a nature that clients are financially capable of bearing the risks related to investment consistently with their investment objectives;

c) is of such a nature for which clients has the necessary experience and knowledge to understand the risks involved in the operation or management of their portfolios.

3. When providing an investment service to professional clients, independent financial advisors or financial advice companies can legitimately presume that, as regards the products, transactions and services for which the client is classified in the professional category, these clients have the necessary level of experience and knowledge for the purposes of Paragraph 2, Letter *c*). In the provision of investment advice to professional clients governed by law pursuant to Annex 3 to this Regulation, independent financial advisors or financial advice companies can legitimately presume, for the purposes of Paragraph 2, Letter *b*), that the clients are financially capable of bearing the related investment risks compatible with their investment objectives.

4. The information regarding the financial situation of the client or potential client shall include,

114 Letter thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "risk tolerance" added the words: "and any sustainability preferences of the client."

where relevant, details on the source and consistency of regular income, assets, including liquid assets, investments and real estate and regular financial commitments.

5. The information regarding the investment objectives of the client or potential client shall include, where relevant, details on the period of time for which the client wishes to hold the investment, any preferences regarding risk, the risk profile and the purpose of the investment **and any sustainability preferences of the client**[115].

6. When a customer is a legal person or a group composed of two or more natural persons or when one or more natural persons are represented by another natural person, the independent financial advisor or financial advice companies shall develop and apply a policy to define which party should be the subject of the suitability assessment and how this assessment is to be carried out in practice, specifying inter alia the party from which the information on knowledge and experience, financial situation and investment objectives should be collected. The independent financial advisor or financial advice company shall record this policy. When a natural person is represented by another natural person or when a natural person must be considered for the suitability assessment to be a legal person that has requested to be treated as a professional client, the financial situation and the investment objectives shall be those of the legal person or, in relation to the natural person, of the backing client rather than those of the representative. The knowledge and experiences shall be those of the representative of the natural person or of the person authorised to perform transactions on behalf of the backing client.

7. Independent financial advisors and financial advice companies shall adopt reasonable measures to ensure that the information collected on clients or potential clients is reliable. These measures shall include, by way of example and not of limitation:

a) ensuring that clients are aware of the importance of providing accurate and up-to-date information;

b) ensuring that all the instruments, such as profiling instruments for risk assessment or instruments to assess the knowledge and experience of a client, used in the suitability assessment process meet the pre-established purpose and are properly designed for use with clients;

c) ensuring that the questions used in the process are intended to be understood by the clients, procure an accurate description of the objectives and needs of the client and gather the information necessary to conduct the suitability assessment;

d) taking action, where necessary, to ensure the consistency of client information, for example analysing whether the information provided includes evident inaccuracies.

8. Independent financial advisors and financial advice companies that maintain an ongoing relationship with a client, providing continuous advice services, shall have appropriate and documented procedures to keep appropriate and updated client information, to the extent necessary to meet the requirements referred to in Para. 4.

115 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "purpose of the investment" added the words: "and any sustainability preferences of the client."

9. Independent financial advisors and financial advice companies shall not recommend investment services or financial instruments to a client or potential client when, in the provision of investment advice, they fail to obtain the information referred to in Article 171, Para. 1.

10. Independent financial advisors and financial advice companies shall ensure that information concerning the knowledge and experiences of a client or potential client in the investment sector includes the following elements, insofar as it is appropriate in view of the nature of the client, the nature and consistency of the service to be provided and the type of product or transaction envisaged, including the complexity and related risks:

a) the types of services, transactions and financial instruments with which the client is familiar;

b) the nature, volume and frequency of the transactions in financial instruments made by the client and the period during which they were performed;

c) the level of education and the profession or, where relevant, the previous profession of the client or potential client.

11. Independent financial advisors and financial advice companies shall not discourage clients or potential clients from providing the information required for the purposes of the assessment referred to in Article 171.

12. Independent financial advisors and financial advice companies can legitimately rely on the information provided by clients or potential clients, unless they are aware, or ought to be aware, that it is clearly out of date, inaccurate or incomplete.

Article 168
(C*lassification of clients*)

1. On the basis of the information obtained pursuant to Article 167 and any other information acquired, independent financial advisors and financial advice companies shall classify the client as a retail or professional client. Independent financial advisors and financial advice companies shall notify clients of the resulting classification.

2. Independent financial advisors and financial advice companies shall notify the client, on a durable medium, of any right to request different classification and of any limits that would result in terms of client protection.

3. Independent financial advisors and financial advice companies can, on their own initiative or upon request by the client, treat as a retail client a client that is considered to be a professional client by law.

Article 169
(*Information on financial instruments*)

1. *b)* information on the financial instruments and investment strategies offered must include due guidelines and warnings on the risks associated with investments relating to these instruments or to certain investment strategies, as well as indication of whether the financial instruments are intended for retail or professional clients, taking into account the reference market identified for

each financial instrument.

2. Independent financial advisors and financial advice companies shall provide clients, in good time prior to the provision of the investment advice service, a general description of the nature and risks of the financial instruments dealt with in the provision of the service, taking into account in particular the classification of the client as a retail or professional client. This description explains the characteristics of the specific type of instrument concerned, the operation and the results of the financial instrument under various market conditions, both positive and negative, and the risks inherent in this type of instrument in a sufficiently detailed manner to enable the client to make informed investment decisions.

3. The description of the risks referred to in Paragraph 1 shall include, as far as relevant for the specific type of instrument concerned and the status and level of knowledge of the client, the following elements:

a) the risks associated with the type of financial instrument, including an explanation of the leverage and its impact and the risk of total loss of investment, including the risks associated with issuer insolvency or with related events such as saving with internal assets;

b) the volatility of the price of the instruments and any limits of the available market;

c) information on the obstacles or limitations to divestment, for example in the case of illiquid financial instruments or financial instruments with fixed-term investment, including a presentation of the possible methods of withdrawal and of the consequences of this withdrawal, of any constraints and of the time span estimated for the sale of the financial instruments before being able to recover the initial costs of the transaction for this type of financial instrument.

4. When providing retail clients or potential retail clients with information on a financial instrument that is the subject of a current offer to the public, for which a prospectus has been published in accordance **with Regulation (EU) 2017/1129**, independent financial advisors and financial advice companies shall tell the clients or potential clients, in good time prior to the provision of the investment service, where this prospectus is available to the public[116].

5. When a financial instrument is composed of two or more different financial instruments or services, independent financial advisors and financial advice companies shall provide an accurate description of the legal nature of the financial instrument, its components and the way in which the interaction between the components affects the risks of the investment.

6. In the case of financial instruments that involve a capital guarantee or security mechanism, independent financial advisors and financial advice companies shall provide clients or potential clients with information on the scope of application and the nature of such a capital guarantee or protection mechanism. When the guarantee is provided by a third party, the information shall include sufficient details on the guarantor and the guarantee, in order that the client or potential client may properly evaluate the guarantee.

116 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Directive 2003/71/EC" with the words: "Regulation (EU) 2017/1129."

Article 170
(*Information on related costs and charges*)

1. Information on all the related costs and charges must include information relating both to the investment services that ancillary services, the cost of the advice and of the recommended financial instrument and the method of payment by the client.

2. **Independent financial advisors and financial advice companies shall provide clients with information on costs and charges,** including those related to the investment service and the financial instrument, not caused by the occurrence of an underlying market risk, **presenting them** in aggregate form to allow the client to understand the total cost and its overall effect on the return and, upon client request, in analytical form. Where applicable, this information is provided to the client at regular intervals, and in any case at least once a year, for the full period of the investment[117].

3. For the purposes of notifying clients *ex ante* and *ex post* of information on costs and charges, independent financial advisors and financial advice companies shall present in aggregated form the following:

a) all related costs and charges applied by the independent financial advisor or financial advice company or by other parties, where the client has been referred to these other parties, for the investment service or services and/or ancillary services provided to the client;

b) all related costs and charges associated with the creation and management of the financial instruments.

The costs referred to in Letters *a*) and *b*) are those listed in Annex II of Regulation (EU) 2017/565.

4. When a part of the total costs and charges must be paid or is expressed in foreign currency, independent financial advisors and financial advice companies shall indicate this currency, as well as the applicable exchange rates and fees. Independent financial advisors and financial advice companies shall also provide information on the methods of payment or other provision.

5. Independent financial advisors and financial advice companies that recommend to clients services provided by an investment firm shall present the costs and charges of their services in aggregated form with the costs and charges for services provided by the investment firm. Independent financial advisors and financial advice companies that have referred clients to investment firms shall take into account the costs and charges related to the provision of other investment services or ancillary services by the investment firms.

6. To calculate *ex ante* the costs and charges, independent financial advisors and financial advice companies shall use costs actually incurred as a model for expected costs and charges. Where they do not have any actual costs, they shall make reasonable estimates of these costs. Independent financial advisors and financial advice companies shall review the calculations made *ex ante* on the basis of *ex post* experience and, where necessary, make adjustments.

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117 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "information on costs and charges" with the words: "Independent financial advisors and financial advice companies shall provide clients with information on costs and charges," and the words: "must be presented" with the words: "presenting them."

7. Where they have recommended to a client one or more financial instruments and have or have had an ongoing relationship with the client during the year, independent financial advisors and financial advice companies shall provide the client with annual *ex post* information on all costs and charges relating both to the financial instrument or instruments and to the advice service and ancillary services. This information is based on the costs incurred and is provided in personalised form. Independent financial advisors and financial advice companies may choose to provide such aggregate information on the costs and charges of the investment services and financial instruments at the same time as any periodic reports intended for clients.

8. Independent financial advisors and financial advice companies shall provide clients with **a specific illustration** of the cumulative effect of the costs of the provision of the investment services on profitability. This illustration is presented both *ex ante* and *ex post*. Independent financial advisors and financial advice companies shall ensure that the illustration meets the following requirements[118]:

a) the illustration demonstrates the effect of the total costs and the charges on the profitability of the investment;

b) the illustration shows any expected upward spikes or fluctuations in costs;

c) the illustration is accompanied by a description thereof.

Article 171
(Suitability assessment)

1. For the performance of the investment advice services, independent financial advisors and financial advice companies shall obtain the necessary information on clients or potential clients' knowledge and experiences of investment with regard to the specific type of product or service, on their financial situation, including their capacity to bear losses and their investment objectives, including their risk tolerance, in order to be able to recommend suitable investment services and financial instruments to clients or potential clients and, in particular, that are suitable in terms of risk tolerance and capacity to bear losses.

2. Where, in the provision of services, independent financial advisors and financial advice companies recommend a service together with another service or aggregated products, they must assess whether the whole package is suited to the needs of the client.

3. Independent financial advisors and financial advice companies shall have appropriate and verifiable procedures to ensure they are capable of understanding the nature and characteristics, including the costs and risks, of the investment services and financial instruments selected for their clients**, including any sustainability factors,** and of assessing, taking into account the costs and complexity, whether equivalent investment services or financial instruments may correspond to the client profile[119].

118 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "an illustration" with the words: "a specific illustration."

119 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "for their clients" added the words: ", including any sustainability factors,".

4. Independent financial advisors and financial advice companies shall refrain from making recommendations if none of the services or instruments is suitable for the client. **Independent financial advisors and financial advice companies shall not indicate a financial instrument as conformant to the sustainability preferences of a client or potential client if it is not conformant to these preferences. They shall explain to clients or potential clients why they abstain from recommending such instrument and shall keep proper documentation thereof. Where no financial instrument is conformant to the sustainability preferences of the client or potential client, and if the client decides to modify his/her sustainability preferences, the independent financial advisors and financial advice companies shall keep a record of the client's decision, including its reasons**[120]**.**

5. When the recommendation involves changes in investments, through the sale of an instrument and the purchase of another or through the exercise of the right to make a change to an existing instrument, independent financial advisors and financial advice companies shall collect the necessary information on existing client investments and on recommended new **investments, shall analyse** the costs and benefits of the change, in such a way as to be reasonably able to demonstrate that the benefits of the change are greater than the related costs, **and shall communicate to the client if the benefits deriving from the changes to the investments are higher or lower than the related costs. This paragraph shall not apply to the services provided to professional clients, unless these clients notify the independent financial advisors and financial advice companies in electronic format or on paper that they intend to benefit from the analysis referred to in this paragraph. The independent financial advisors and financial advice companies shall keep the communications made by the clients in accordance with this paragraph**[121]**.**

6. Independent financial advisors and financial advice companies shall provide retail clients**, at the time of provision of the service, with a report on a durable medium that includes** a general description of the advice given and of how the recommendation provided is suitable for the retail client, including an explanation of how it meets the objectives and the personal circumstances of the client in relation to the requested duration of the investment and to the knowledge and experience**, propensity to risk, ability to sustain losses and sustainability preferences of**

120 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which added at the end the following clauses: "Independent financial advisors and financial advice companies shall not indicate a financial instrument as conformant to the sustainability preferences of a client or potential client if it is not conformant to these preferences. They shall explain to clients or potential clients why they abstain from recommending such instrument and shall keep proper documentation thereof. Where no financial instrument is conformant to the sustainability preferences of the client or potential client, and if the client decides to modify his/her sustainability preferences, the independent financial advisors and financial advice companies shall keep a record of the client's decision, including its reasons."

121 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "investments and shall analyse" with the words: "investments, shall analyse"; after the words: "related costs" added the words: "and shall communicate to the client if the benefits deriving from the changes to the investments are higher or lower than the related costs" and added at the end the following clause: "This paragraph shall not apply to the services provided to professional clients, unless these clients notify the independent financial advisors and financial advice companies in electronic format or on paper that they intend to benefit from the analysis referred to in this paragraph. The independent financial advisors and financial advice companies shall keep the communications made by the clients in accordance with this paragraph."

the client. Independent financial advisors and financial advice companies shall make clients aware of and include in the suitability report information on the probability that the recommended services or instruments shall require the retail client to ask for a periodic review of the relative provisions. When independent financial advisors and financial advice companies provide a service that involves periodic suitability assessment and reports, any reports made subsequent to the initial definition of the service may concern only the amendments made to services or instruments in question and/or to the client situation and do not necessarily have to repeat all the details of the first report[122].

7. Independent financial advisors and financial advice companies that provide periodic suitability assessment shall review at least once a year, in order to improve the service, the suitability of the recommendations made. The frequency of such assessment is increased on the basis of the client risk profile and the types of recommended financial instruments.

Article 172
(*Reporting obligation*)

1. In the cases referred to in Article 165, Paragraph 1, Letter *l*), independent financial advisors and financial advice companies have a reporting obligation towards their clients. Clients shall receive from independent financial advisors and financial advice companies reports on the service provided according to the methods and frequency established in the contract.

2. Independent financial advisors and financial advice companies that have informed clients that they will carry out periodic assessment of the suitability of financial instruments shall provide periodic reports containing an up-to-date statement indicating the reasons why the investment corresponds to the preferences, objectives and other characteristics of the client.

2-*bis*. This article shall not apply to the services provided to professional clients, unless these clients notify the independent financial advisors and financial advice companies, in electronic format or on paper, that they intend to receive the periodic reports. The independent financial advisors and financial advice companies shall keep the notifications made by the clients in accordance with this paragraph[123].

TITLE III
REQUIREMENTS AND METHODS OF FULFILMENT OF INFORMATION OBLIGATIONS BY INDEPENDENT FINANCIAL ADVISORS AND FINANCIAL ADVICE COMPANIES IN THE PROVISION OF SERVICES

Article 173
(*General information requirements and conditions for accurate, clear and non-misleading information*)

122 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "a report that includes" with the words: ", at the time of provision of the service, with a report on a durable medium that includes" and the words: "propensity to risk and ability to sustain losses of the client" with the words: "propensity to risk, ability to sustain losses and sustainability preferences of the client."

123 Paragraph inserted with Resolution no. 22430 of 28.7.2022.

1. All he information shall be provided by the independent financial advisors or financial advice companies in a comprehensible form, in order that clients or potential clients may reasonably understand the nature of the investment service and the specific type of financial instrument being offered, as well as the connected risks and, consequently, allow them to make fully informed investment decisions.

2. Independent financial advisors and financial advice companies shall ensure that all the information, including advertising and promotional notices, that they direct towards retail or professional clients or potential retail or professional clients or that they disclose in such a way that is likely to be received by such clients or potential clients satisfies the conditions provided for by this article:

a) the information shall include the name of the independent financial advisor or of the financial advice company;

b) the information shall be accurate and always provides proper highlighted indication of the risks when there is mention of the potential benefits of an investment service or financial instrument;

c) in the indication of the risks the information shall use a character size at least equal to the main size of the font used for all of the information provided, as well as a graphical layout which ensures that this indication is highlighted;

d) the information shall be sufficient and presented in such a way as to be in all probability understandable to the average member of the group for which it is intended or by which it is likely to be received;

e) the information shall not mask, minimise or obscure important items, statements or warnings;

f) the information shall be uniformly presented in the same language as the information and advertising material, in any form, provided to each client, except in the case in which the client has agreed to receive information in more than one language;

g) the information shall be up-to-date and relevant to the means of communication used.

3. When the information compares investment services or ancillary services, financial instruments or providers of investment services or ancillary services, independent investment advisors and investment advice companies shall ensure that the following conditions are met:

a) the comparison is significant and is presented in a fair and balanced way;

b) the sources of the information used for the comparison are specified;

c) the key facts and hypotheses used for the comparison are indicated.

4. When the information contains an indication of the past results of a financial instrument, financial index or investment service, independent investment advisors and investment advice companies shall ensure that the following conditions are met:

a) this indication is not the element most evident in the communication;

b) the information must include appropriate data on the results concerning the five previous years or, where shorter than five years, the entire period during which the financial instrument was offered, the financial index used or the investment service provided or for a longer period decided by the independent investment advisor and investment advice company; in any case, this data shall be based on complete periods of twelve months;

c) the reference period and the source of the information are clearly indicated;

d) the information contains clear warning that the data refers to the past and that past performance is not a reliable indicator of future results;

e) where the indication is based on data expressed in a currency other than the currency of the EU country in which the retail client or potential retail client is resident, the information clearly indicates the currency concerned and warns that the yield may increase or decrease as a result of fluctuations in exchange rate;

f) where the indication is based on gross results, the effect of commissions, fees or other charges is indicated.

5. When the information includes or refers to simulations of past results, independent investment advisors and investment advice companies shall ensure that the information concerns a financial instrument or financial index and that the following conditions are met:

a) simulations of past results are based on the real past results of one or more financial instruments or financial indices that are identical or substantially identical or underlie the financial instrument in question;

b) as regards the real past results referred to in Letter *a*), the conditions referred to in Paragraph 4, Letters *a*) to *c*), *e*) and *f*) must be met;

c) the information contains clear warning that the data refers to the simulation of past results and that past performance is not a reliable indicator of future results.

6. When the information contains information on future results, independent investment advisors and investment advice companies shall ensure that the following conditions are met:

a) the information is not based on simulations of past achievements nor does it refer to them;

b) the information is based on reasonable hypotheses supported by objective data;

c) where the information is based on gross results, the effect of commissions, fees or other charges is indicated.

d) the information is based on hypothetical results under various market conditions (both positive and negative hypotheses) and reflect the nature and risks of the specific types of instruments covered by the analysis;

e) the information contains clear warning that these predictions do not constitute a reliable indicator of future results.

7. When it refers to a particular tax treatment, the information clearly indicates that the tax treatment depends on the individual situation of each client and may be subject to variations in the future.

8. The information does not use the name of the Body or CONSOB in any way that could indicate or suggest that they endorse or approve the services of the independent investment advisor and investment advice company.

Article 174
(*Methods of fulfilment of information obligations*)

1. Independent investment advisors and investment advice companies shall provide the information referred to in Articles 165, 167, 169 and 170 to clients or potential clients in good time prior to providing their investment advice services or ancillary services.

2. This information shall be provided on a durable medium or via an website , provided that they fulfil the conditions referred to in Article 175, Paragraph 2.

3. Independent investment advisors and investment advice companies shall notify the client in good time of any significant amendment to the information provided pursuant to Articles 165, 167, 169 and 170 that is of interest in relation to a service that the advisor provides. The notification shall be made on a durable medium if the information to which it refers is provided on a durable medium.

4. Independent investment advisors and investment advice companies shall ensure that the information included in marketing messages is consistent with that provided to the client within the framework of the provision of investment services and ancillary services.

5. Marketing messages that include an offer or invitation as indicated below and that specify how to reply or include a reply form shall include the information referred to in Articles 165, 167, 169 and 170, if relevant to the offer or invitation:

a) offers to enter into agreement for the provision of investment advice services with the person who replies to the message;

b) invitations to the person that replies to the message to make an offer to enter into agreement for the provision of investment advice services.

Article 175
(Information on durable media and via website)

1. When, for the purposes of Article 174, the information must be provided on a durable medium pursuant to Article 1, Paragraph 6-*octiesdecies* of the Consolidated Law on Finance, independent investment advisors and investment advice companies have the right to provide such information on a non-paper durable medium only if:

a) the provision of information on such a support is appropriate to the context in which the business relationship with the client is performed or will be performed;

b) the persons to whom the information is addressed, when they are offered the option of choosing between information on paper or on this other durable medium, choose specifically this other medium.

The independent financial advisors and financial advice companies shall keep into account the sustainability risks in conforming to the requirements referred to in this paragraph[124]**.**

2. When, in accordance with Articles 165, 169, 170 and 174, independent investment advisors and investment advice companies provide financial information to clients via a website and this information is not addressed personally to the client, independent investment advisors and investment advice companies shall ensure that the following conditions are met:

a) the provision of information on such a support is appropriate to the context in which the business relationship between the independent investment advisor or investment advice company and the client is performed or will be performed;

b) the client expressly consents to the provision of information in this form;

c) the client is notified electronically of the website address and the area of the website where he/she may access the information;

d) the information is up-to-date;

e) the information is always accessible via this website for the full period of time during which, within reason, the client may need to view it.

3. For the purposes of this article, the provision of information by means of electronic communications shall be considered appropriate to the context in which the business relationship between the independent investment advisors or investment advice companies and the client is performed or will be performed, when there is evidence that the client has regular internet access. The client's provision of an email address for the purposes of this business relationship is considered proof of this internet access.

TITLE IV
ORGANISATION AND PROCEDURES OF INDEPENDENT FINANCIAL ADVISORS AND FINANCIAL ADVICE COMPANIES

Article 176
(*Internal procedures and remuneration practices*)

1. Independent financial advisors and financial advice companies shall adopt, apply and maintain:

124 Clause inserted with Resolution no. 22430 of 28.7.2022.

a) procedures appropriate to the nature, scale and complexity of the activity undertaken that ensure the fulfilment of the obligations of due diligence, fairness and transparency in the provision of the investment advice service;

b) procedures that allow the reconstruction of the conduct used in the provision of the investment advice service;

c) appropriate measures to ensure prudent management of the services provided and appropriate consideration of the interests of their clients;

d) appropriate measures to ensure that the persons who provide the services possess sufficient knowledge, skills and experience and devote sufficient time to the performance of their functions.

2. Independent financial advisors and financial advice companies shall adopt appropriate provisions to obtain the necessary information on the financial instrument and on its approval process, including its reference market, and to understand the characteristics and the reference market identified for each financial instrument; These provisions shall be without prejudice to the obligations relating to the informative report, the suitability assessment and the identification and management of conflicts of interest.

3. Independent financial advisors and financial advice companies, where proportionate to the size of the activity performed, shall formalise in an adequate and ordered manner the procedures adopted pursuant to Paragraph 1.

4. Independent financial advisors and financial advice companies shall define and implement remuneration policies and practices governed by appropriate internal procedures to guarantee sound management and with the aim of ensuring that clients are treated fairly and that their interests are not harmed by the remuneration practices adopted in the short, medium or long term. The remuneration policies and practices are intended to prevent conflicts of interest that can induce the parties concerned to promote their own interests or the interests of the independent financial advisor or financial advice company to the potential detriment of a client.

5. Independent financial advisors and financial advice companies shall ensure that the remuneration policies and practices followed apply to all significant parties who have a direct or indirect impact on the provision of the advice service, regardless of the type of client, to the extent that the remuneration of these parties may create a conflict of interests that encourages them to act against the interests of a client.

6. The administrative body of the advice company shall approve the remuneration policy of the company. The management of the investment advice company is responsible for implementing as part of daily practice the remuneration policy and the monitoring of compliance risk in relation to this policy.

7. The remuneration shall not be based exclusively or mainly on commercial quantitative criteria and shall take into full account appropriate qualitative criteria that reflect compliance with applicable regulations, the fair treatment of clients and the quality of the services provided. The balance between the fixed and variable components of remuneration is maintained under all circumstances, in order that the pay structure does not promote the interests of the independent

financial advisor or financial advice company or the respective significant parties to the detriment of the interests of a client.

Article 177
(Conflicts of interest)

1. Independent financial advisors and financial advice companies shall adopt all reasonable measures, appropriate to the nature, scale and complexity of the activity performed, **to identify and prevent** or manage conflicts of interest that could arise with the client or between clients, during the provision of the investment advice service[125].

2. Independent financial advisors and financial advice companies shall manage conflicts of interest even by adopting suitable organisational measures, appropriate to the nature, scale and complexity of the activity performed, and by ensuring that the assignment of multiple functions to significant parties engaged in activities that involve a conflict of interests does not prevent them from acting independently, so as to avoid such conflicts of interest from negatively affecting the interests of the clients.

3. The provisions referred to in Paragraph 2 shall also apply in the case of conflicts of interest that may arise between clients and the spouses, partner, children, family members within the second degree and any other relative within the fourth degree of the financial advisor and the significant parties.

4. When the measures adopted pursuant to Paragraphs 1 and 2 are not sufficient to ensure, with reasonable certainty, that the risk of harming the interests of customers is avoided, the independent financial advisors and financial advice companies shall inform the clients clearly of the nature and/or of sources of the conflicts and of the mitigating measures adopted. This information shall be provided on a durable medium and are sufficiently detailed, in consideration of the characteristics of the client, so that the client is capable of making an informed decision on the service provided, taking into account the context in which the conflict situations arise.

5. As a minimum criterion for determining the types of conflicts of interest which may arise during the provision of the investment service, and whose existence may adversely affect the interests of a client, **including any sustainability preferences thereof,** the independent financial advisors and financial advice companies shall consider whether they or a significant party find themselves in one of the following situations[126]:

a) it is likely that the independent financial advisor, financial advice company or significant party produces a financial gain or avoids a financial loss at the expense of the client;

b) the independent financial advisor, financial advice company or the significant party have an interest in the result of the service provided to the client or operation performed on his/her behalf that is separate from that of the client;

125 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "to identify, prevent" with the words: "to identify and prevent."

126 Introductory part thus amended with Resolution no. 22430 of 28.7.2022, which after the words: "interests of a client" added the words: "including any sustainability preferences thereof,".

c) the independent financial advisor, financial advice company or the significant party have a financial incentive or other incentive to favour the interests of another client or group of clients over those of the client concerned;

d) the independent financial advisor, financial advice company or the significant party perform the same activity as the client.

6. Independent financial advisors and financial advice companies shall develop, implement and maintain an effective policy on conflicts of interest formulated in writing and adapted to their size and to the relative organisation, as well as to the nature, scale and complexity of the activity performed. If the financial advice company belongs to a group, this policy also takes into account any circumstances, of which the company of financial advice is or should be aware, that could cause a conflict of interest resulting from the structure and the activities of other members of the group.

7. The policy on conflicts of interest implemented in accordance with Paragraph 6:

a) must allow the identification, with reference to the investment advice service, of the circumstances that generate or could generate a conflict of interest that may adversely affect the interests of one or more clients;

b) must define the procedures to be followed and measures to be taken to prevent or to manage conflicts of interest.

8. The procedures and measures referred to in Paragraph 7, Letter *b*) are designed to ensure that the significant parties engaged in various professional activities that involve a conflict of interest of the kind specified in Paragraph 7, Letter *a*) perform these activities with a degree of independence appropriate to the size and activities of the independent financial advisor or financial advice company and the group to which it belongs and to the risk that the interests of the clients are adversely affected. For the purposes of Paragraph 7, Letter *b*), the procedures to be followed and measures to be taken must include at least the elements listed below that are necessary to ensure that the independent financial advisor or financial advice company guarantee the degree of independence required:

a) effective procedures to prevent or control the exchange of information between the significant parties engaged in activities which involve a risk of conflict of interest, where the exchange of such information may adversely affect the interests of one or more clients;

b) the separate supervision of the significant parties whose principal functions involve the performance of activities on behalf of clients with interests in potential conflict, or who otherwise represent different interests in potential conflict, including those of the independent financial advisor or financial advice company;

c) the elimination of any direct link between the remuneration of the significant parties who perform predominantly one activity and the remuneration of, or income generated by, other significant parties who perform predominantly another activity, in the event that a conflict of interest could arise in relation to these activities;

d) measures to prevent or limit the exercise by any person of undue influence on the way in

which a significant party performs the investment service.

9. Independent financial advisors or financial advice companies shall ensure that any notices to clients pursuant to Paragraph 4 are adopted as an extreme measure to be used only when the effective organisational and administrative provisions adopted in order to prevent or to manage conflicts of interest are not sufficient to ensure, with reasonable certainty, avoidance of the risk of harming the interests of the client. The notice shall clearly indicate that the organisational and administrative provisions adopted by the independent financial advisors or financial advice companies to prevent or manage conflicts of interest are not sufficient to ensure, with reasonable certainty, avoidance of the risk of harming the interests of the client. The notice shall include a specific description of the conflicts of interest that arise in the provision of the investment service, taking into consideration the nature of the client to whom the notice is sent. The description shall explain in sufficient detail the general nature and sources of conflicts of interest, as well as the risks that are generated for the client as a result of the conflicts of interest and the actions taken to mitigate them, in such a way as to allow the client to make an informed decision in relation to the investment service under which the conflicts of interest arise.

10. Independent financial advisors and financial advice companies shall periodically evaluate and review (at least once a year) the policy on conflicts of interest elaborated in accordance with Paragraphs 1 to 4 and shall adopt appropriate measures to remedy any shortcomings. Excessive recourse to the disclosure of conflicts of interest is considered to be a shortcoming of the policy adopted on conflicts of interest.

11. Independent financial advisors and financial advice companies shall establish and maintain in a regular manner in a register in which they record the situations in which a conflict of interest has arisen or may arise that risks harming the interests of one or more clients[127].

Article 178
(*Records*)

1. Independent financial advisors and financial advice companies, in the provision of investment services and for all recommended transactions, shall keep, on a durable medium, records sufficient to allow the Body to fulfil its supervisory duties, to verify compliance with the rules laid down by this Book and, in particular, to verify compliance with the obligations towards clients or potential clients. The records must be stored by the financial advice company on behalf of which the independent financial advisor operates.

2. The records shall be stored on a medium that allows the information to be preserved in such a way as to be used in the future by the Body and in a form and according to the methods that fulfil the following conditions:

a) the Body can access the information promptly and reconstruct every fundamental stage of the processing of each transaction;

b) any corrections or other modifications made, as well as the content of the records before these corrections or modifications, can be easily identified;

127 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which removed the word: "seriously."

c) the records cannot be manipulated or otherwise altered;

d) the records may be processed using a computer or other efficient processing method, should it be impossible to perform data analysis easily, due to the volume and nature of the data;

e) the provisions of the independent financial advisors and financial advice companies fulfil the requirements of storing records separate from the technology used.

3. Without prejudice to the obligations of storing records established by other regulations, independent financial advisors and financial advice companies shall keep at least the records indicated in Annex I of Regulation (EU) 2017/565, based on the nature of the activities undertaken.

4. Independent financial advisors and financial advice companies shall also keep written records of all the procedures they must maintain pursuant to Article 176.

5. Records concerning the rights and obligations of the independent financial advisor, the financial advice company and the client under an agreement for the provision of services, or the conditions under which it provides services to the client, shall be stored at least for the duration of the relationship with the client and, in the event of removal from the register of independent financial advisors and financial advice companies, for the five years following this relationship.

6. The Body may establish the provisions on the methods and deadlines for storing records and may identify a list of records in addition to the list found under Annex I of Regulation (EU) 2017/565.

Article 179
(*Procedures for reporting infringements*)

1. The procedures which relate to internal systems for reporting infringements, provided for by Article 4-*undecies* of the Consolidated Law on Finance, are approved by the administrative body of the financial advice company and defined in line with the principle of proportionality.

2. The procedures referred to in Paragraph 1 ensure that the parties responsible for receiving, reviewing and evaluating the reports:

a) are not hierarchically or functionally subordinate to the reported party, are not themselves the party allegedly responsible for the infringement and do not have a potential interest related to the reports, such as to compromise their impartiality and independence of judgement;

b) do not participate in the adoption of any decision-making measures, which are remitted to the competent functions or company bodies.

3. Financial advice companies shall appoint a manager of the internal systems for reporting infringements, who shall ensure they function properly and who shall refer to the competent company bodies directly and without delay the information reported, where relevant.

4. The procedures indicated under Para. 1 shall require the parties responsible for receiving, reviewing and evaluating the reports, the manager of the internal systems for reporting

infringements and any other party involved to ensure the confidentiality of the information received.

5. The procedures referred to in Paragraph 1 shall also establish the following:

a) without prejudice to the provisions of Article 4-*undecies* of the Consolidated Law on Finance, the parties who can activate the infringement reporting systems and the acts or facts that may be subject to reporting;

b) the methods to be used for reporting alleged infringements;

c) the parties responsible for receiving reports;

d) the methods and times of the procedure stages concerning the processing of reports and dealing with the parties involved;

e) the cases in which the manager of the internal infringement reporting systems is obliged to notify immediately the competent company bodies;

f) the methods by which the reporting party and the reported party must be informed of the developments in the processing of the report;

g) the obligation for the reporting party to declare any private interest relating to the report;

h) in the case in which the reporting party is partly responsible for the infringement, preferential treatment of this party as compared to the others jointly responsible, within the limits of the applicable regulations.

6. In order to encourage the use of the internal infringement reporting systems, financial advice companies shall explain to their personnel clearly, precisely and completely the internal reporting process, indicating the controls in place to guarantee the confidentiality of the personal data of the reporting party and the party allegedly responsible for the infringement.

7. In compliance with the rules and regulations on personal data protection, the manager of the internal infringement reporting systems shall draft an annual report on the proper operation of these systems, including aggregated information on the findings of the investigations undertaken following the reports received, which shall be approved by the competent company bodies and made available to personnel.

8. Without prejudice to compliance with the provisions of Article 4-*undecies* of the Consolidated Law on Finance and of this article, the financial advice company may outsource the activity of receiving, reviewing and evaluating reports of infringement.

PART VI
DISCIPLINARY AND PRECAUTIONARY MEASURES

Article 180
(*Sanctions*)

1. The penalties referred to in Articles 196, Para. 1, Letters *a*), *b*), *c*) and *d*) of the Consolidated Law on Finance are imposed by the Body, on the basis of the severity of the infringement and taking into account any recidivism, for any infringement of the provisions of the Consolidated Law on Finance, this Regulation and any other general or specific provisions adopted on the basis of the said rules and regulations.

2. Without prejudice to that established under Para. 1, the Body shall resolve as follows with regard to the independent financial advisor or financial advice company:

a) cancellation from the register in the case of:

1) falsification of the signature of clients or potential clients on any contract documents or other documents relating to the performance of investment advice services;

2) infringement of the provisions relating to the independence requirements of financial advisors established by the Ministerial Regulation referred to in Article 18-*bis* and by the Ministerial Regulation referred to in Article 18-*ter* of the Consolidated Law on Finance;

3) acquisition of the availability of, or holding, even temporarily, sums of money or financial instruments belonging to clients or potential clients, in infringement of Articles 18-*bis*, Para. 1 and 18-*ter*, Para. 1 of the Consolidated Law on Finance;

4) failure to comply with the prohibition established under Article 162, Para. 3;

5) communication or transmission to clients or potential clients, to the Body or to CONSOB of misrepresented information or documents, with the exception of the provisions of Article 152, Para. 1, Letter *b*);

6) ***...omissis...*** [128]

7) failure to comply with the suspension measures adopted by the OCF (Body of Financial Advisors);

8) use of parties not registered in the section of independent financial advisors in the provision of investment advice services;

b) suspension from the register in the case of[129]:

1) performing activities or taking on assignments that are incompatible pursuant to Article 163;

2) infringement of the provisions of Article 164 on professional updating;

128 Point removed with Resolution no. 22430 of 28.7.2022.

129 Paragraph thus amended with Resolution no. 22430 of 28.7.2022, which removed the words: "for from one to four months."

3) infringement of the provisions of Article 165 on the rules of presentation and information on the advisor and his/her services;

4) infringement of the provisions of Article 166 on the investment advice contract;

5) infringement of the provisions of Article 167 on the acquisition of information from clients and their classification;

6) infringement of the provisions of Article 169 concerning information on financial instruments;

6-*bis*) infringement of the provisions of Article 170 concerning information on related costs and charges[130];

7) infringement of the provisions of Article 171 on suitability assessment;

8) infringement of the provisions of Article 172 on the reporting obligation;

9) infringement of the provisions of Article 173 relating to the general requirements of disclosure and the conditions for the provision of accurate, clear and non-misleading information;

10) infringement of the provisions of Article 174 on the methods of fulfilment of disclosure obligations;

11) infringement of the provisions of Article 175 concerning information on durable media and via website;

12) infringement of the provisions of Article 176 on internal procedures;

13) infringement of the provisions of Article 177 on conflicts of interest;

14) infringement of the provisions of Article 178 on records;

14-*bis*) non-compliance with the obligation referred to in Article 153, paragraph 4[131];

c) the payment of between five hundred and sixteen euro and twenty-five thousand eight hundred and twenty-three euro in the case of infringement of the provisions referred to in Article 153, with the exception of Paragraphs 1 and 4 of the same article.

3. Without prejudice to that established under Paragraph 1, the Body:

a) orders the cancellation of the financial advisor qualified for door-to-door selling in the case of:

130 Point inserted with Resolution no. 22430 of 28.7.2022.

131 Point inserted with Resolution no. 22430 of 28.7.2022.

1) infringement of the provision of Article 31, Paragraph 2, first sentence of the Consolidated Law on Finance[132];

2) door-to-door selling or distance promotion and placement on behalf of unqualified parties;

3) falsification of the signature of clients or potential clients on any contract documents or other documents relating to transactions performed by them;

4) acquisition of the availability, even temporarily, of sums of money or values belonging to clients or potential clients;

5) communication or transmission to clients or potential clients, to the Body or to CONSOB of misrepresented information or documents;

6) investment promotion performed in infringement of the provisions of Part IV, Title II, Chapter I of the Consolidated Law on Finance and the relative implementing provisions;

7) finalisation of transactions not authorised by the client or potential client, affecting direct or indirect client relations;

8) ***...omissis...***[133]

9) failure to comply with the suspension measures adopted by the OCF;

b) orders the suspension of the financial advisor qualified for door-to-door selling from the register referred to in Article 196, Para. 1, Letter *c*) of the Consolidated Law on Finance in the case of[134]:

1) failure to fulfil the obligations laid down in the provisions of Article 155;

2) infringement of the provisions of Article 156;

3) performing activities or taking on assignments that are incompatible pursuant to Article 157;

4) infringement of the provisions of Article 158, Para. 2;

5) infringement of the provisions of Article 159, Para. 3;

6) infringement of the provisions of Article 159, Para. 4;

7) acceptance from the client or potential client of payment methods, financial instruments

132 Point thus amended with Resolution no. 21466 of 29.7.2020 which replaced the word "second" with the word "first".

133 Point deleted with Resolution no. 22430 del 28.7.2022.

134 Paragraph thus amended with Resolution no. 22430 del 28.7.2022, which deleted the words: "from between one and four months."

and values with characteristics different from those prescribed by Article 159, Para. 5;

8) **infringement of the provisions of Article 159, paragraph 6**[135];

9) failure to comply with the obligations of document storage referred to in Article 160;

9-*bis*) non-compliance with the obligation referred to in Article 153, paragraph 4[136]**;**

c) issues against the financial advisor qualified for door-to-door selling the financial penalty referred to in Article 196, Para. 1, Letter *c*) of the Consolidated Law on Finance, in the case of:

1) failure to comply with the obligations referred to in Article 153, with the exception of Paragraphs 1 and 4 of the same article;

2) infringement of the provisions of Article 159, Paragraphs 1 and 2;

4. For each of the infringements identified in Paragraphs 2 and 3, the Body, having taken into account the circumstances and every element available, may order, in place of the foreseen penalty, the application of the penalty immediately above or below it.

Article 181
(*Precautionary measures*)

1. For the purposes of the possible adoption of the precautionary measures under Article 7-*septies*, Paragraph 1 of the Consolidated Law on Finance, the Body shall assess the severity of the facts in its possession, highlighting, in particular, infringements for which the penalty of removal from the register is foreseen, the methods of implementation of unlawful conduct and the recurrence of the infringement.

2. For the purposes of the possible adoption of the precautionary measures under Article 7-*septies*, Paragraph 1 of the Consolidated Law on Finance, the Body shall assess, within the limits of its powers as attributed by law, the circumstances leading to the registered party being subjected to the personal precautionary measures of Book IV, Title I, Chapter II, of the Penal Code or on the basis of which he/she has been accused of one of the offences listed in the aforementioned regulations and, in particular, the Body shall take into account the specific offence and the degree to which the circumstances mentioned above are capable of prejudicing the specific interests involved in the performance of the activities of financial advisor.

135 Point thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "receiving remuneration or loans in infringement of the provisions of Article 159, Para. 6" with the words: "infringement of the provisions of Article 159, Para. 6."

136 Point inserted with Resolution no. 22430 of 28.7.2022.

ANNEX 1

APPLICATION FOR AUTHORISATION AND FOR THE EXTENSION OF AUTHORISATION TO PROVIDE INVESTMENT SERVICES AND ACTIVITIES IN ITALY BY THIRD COUNTRY FIRMS OTHER THAN BANKS

TITLE I
APPLICATION FOR AUTHORISATION FOR THIRD COUNTRY FIRMS OTHER THAN BANKS

Section I
Application by third country firms other than banks for authorisation to provide investment services with or without ancillary services in Italy through the establishment of branches, in the cases outlined under Article 28, Paragraphs 1, 6 and 6-*bis* of the Consolidated Law on Finance[137]

The application for authorisation to establish branches in Italy by third country firms other than banks, signed by the legal representative of the firm and in compliance with the existing regulations on stamp duty, shall include:

a) full name (including the registered name and any other commercial name used); legal form; registered address and, where different, address of the Directorate General; contact details (telephone and fax numbers, as well as email address); website , where available; national identification number, where available; Legal Entity Identifier (LEI) and Business Identifier Code (BIC), where available;

b) contact details of the person responsible for the application (including telephone number and email address);

c) list of the investment services and activities, ancillary services and financial instruments that the firm intends to provide in Italy by means of the branch, and whether or not it will hold (even on a temporary basis) financial instruments and liquid assets belonging to clients;

d) name and address of the competent authority responsible for the supervision of the firm in the third country; where more than one authority is responsible for the supervision, information on their respective areas of expertise; links to the register of each competent authority of the third country, where available;

e) list of attached documents.

The application for authorisation shall be accompanied by the following documents:

137 Heading thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Art. 28, Paragraphs 1 and 6 of the Consolidated Law on Finance" with the words: "Art. 28, Paragraphs 1, 6 and 6-*bis* of the Consolidated Law on Finance."

1. General information on the applicant firm:

a) copy of corporate documents (including deed of incorporation and by-laws) certified as valid by the competent authority of the country of origin no earlier than 90 days before the submission of the application;

b) written statement issued by the competent authority of the third country indicating the investment services and activities and ancillary services that the firm is authorised to provide in the country in which it is established;

c) information on the geographical distribution of the firm and on the activities it performs;

d) legal opinion on the absence in the third country of provisions precluding the ability of the branch of the third country firm other than a bank to comply with obligations applicable to it pursuant to the Consolidated Law on Finance and the relative implementing regulations or included in directly applicable acts of the European Union;

2. Information on capital:

a) declaration by the financial auditor of the company, or equivalent body, attesting to the amount of paid up share capital and the non-existence of any insolvency proceedings or other equivalent proceedings against the firm;

b) balance sheet with date of reference of no earlier than 60 days before the date of submission of the application;

c) declaration of payment of the endowment fund of the first branch for an amount no lower than that established by the Bank of Italy pursuant to Article 19, Paragraph 1, Letter *d*) of the Consolidated Law on Finance;

3. Information on shareholders:

a) indication of the party who controls the company, according to the notion of control referred to in Article 23 of Legislative Decree no. 385 of September 1, 1993;

b) Group Map with indication of the local position of its members and the principal activities of each firm in the group;

c) identification of all regulated entities within the group and the names of the competent supervisory authorities as well as a description of the relationship between the financial entities and any non-financial entities of the group;

4. information on management and control body, on the persons who conduct the activity and on the branch managers:

a) list of names and full details of all the members of the management and control bodies with indication of the relative powers and of any assigned delegations, general managers and persons who perform functions equivalent to that of a general manager;

b) for the branch managers:

i. personal information, including name, date and place of birth, national personal identification number, where available, address and contact details;

ii. *curriculum vitae* indicating education and vocational training, professional experience, with specification of where this experience was acquired, as well the nature and the duration of the functions performed; with reference to positions held over the past ten years, information on the decision-making powers assigned and on those delegated, as well as on any areas of operation assigned to the control of the person concerned;

iii. documentation relating to the reputation and experience of the person concerned;

iv. official certificates (if and in so far as they are available in the country of origin) or other equivalent documents relating to previous criminal convictions and investigations or prosecutions, relevant civil and administrative cases and disciplinary actions pending against the person concerned (including bans on acting as company director, bankruptcy or insolvency proceedings and similar); for ongoing investigations, information can be provided through declarations issued pursuant to Presidential Decree no. 445 of December 28, 2000;

v. information on refused applications for registration, authorisation or license to perform a commercial or professional activity; or on the withdrawal, revocation or termination of such registration, authorisation or licence; or on the expulsion by a regulatory or governing body or by a professional body or association;

vi. information on any dismissal from a position of work, removal from a position of trust, a trust relationship or similar;

vii. information on any assessment of reputation and experience as a buyer or person who directs activities already carried out by another authority (including the date of the evaluation, the identity of the authority and the outcome of the assessment);

viii. description of the interests or financial and non-financial relationships of the person in question and his/her close family members with the members of the management body and with the holders of key functions in the same institution, parent company, subsidiaries and shareholders;

ix. minutes of the meeting of the management body or, in the case of sole administrator, of the control body, in the course of which the body expressed its opinion on the requirements of the branch managers referred to in Article 13 of the Consolidated Law on Finance. The minutes must be accompanied by the documents used as the basis of the assessments undertaken;

x. information on the minimum time that the branch managers shall devote to performing their functions (annually and monthly);

xi. information on the human and financial resources devoted to the preparation and training of branch managers (annual figures);

5. financial information:

forecasts relating to branches comprising:

a) forecast balances (balance sheet and analytical profit-and-loss account) of the first three years, which shall include:

i. the intended investments, with indication of the total amount, the depreciation schedule and forms of financing, as well as the investment duration or time schedule;

ii. operating costs, according to category;

iii. expected economic results;

iv. trend of cash-flow;

v. trend of prudential requirements;

b) the hypothetical plans for the aforementioned forecasts and explanations of the figures, including estimations on the number and type of client, the volume of the transactions/orders and the assets under management;

6. information on the organisation of branches:

a) address of the branch and, where available, contact details (telephone and fax numbers, email address);

b) description of the activities planned for the next three years, with particular reference to the following aspects:

i. information on the planned types of operations, including the products to be used in the transactions and the types of venue envisaged for the execution of orders;

ii. information on any ancillary services that may be performed jointly with the investment services or activities for which authorisation is requested;

iii. type and geographical location of target clients of the branch;

iv. marketing and promotional activities and agreements, including the types of promotional documents used;

v. indication of any use of financial consultants qualified for door-to-door selling and/or distance communication tools;

vi. names, where available at the time of the application for authorisation, of the advisors and distributors of investment services and activities and the geographical location of their businesses;

c) organisational structure and internal control systems, including:

i. the personal details of those responsible for the functions of management and control, including detailed *curriculum vitae* indicating education, training and professional experience;

ii. a description of the resources (in particular human and technical resources) allocated to the various activities envisaged;

iii. in reference to the possible holding of financial instruments and liquid assets belonging to clients, information on the arrangements for protecting client assets (in particular, if the financial instruments and the liquid assets are held by a depositary, the name of the depositary and relative contact details);

iv. list of the functions, services or activities that are outsourced (or intended for outsourcing) together with a description of the internal control system of these

functions with an indication of human and technical resources responsible for the controls;

d) documents certifying the subscription of the branch to an indemnity system that protects investors, as provided for by Article 60, Paragraph 2, of the Consolidated Law on Finance;

e) description of the measures to detect and prevent or manage any conflicts of interest in the provision of the investment services and activities and ancillary services;

f) description of the measures taken in terms of product governance;

g) description of the systems for monitoring the branch's activities, including back-up systems, where available, and the controls of systems and risk in the event that the firm intends to perform algorithmic trading and/or provide direct electronic access;

h) description of the internal control procedures relating to compliance control, internal auditing and risk management;

i) description of procedures to prevent money laundering;

l) description of business continuity plans, including systems and human resources;

m) description of the policies for managing, holding and storing records;

n) description of the manual of branch procedures for the performance investment services or activities and compliance with the rules of transparency and fairness.

Section II
Application for authorisation by third country firms other than banks, under the freedom to provide services, with or without ancillary services, to qualified counterparties or professional clients by law in the cases referred to in Article 28, Paragraphs 6 and 6-*bis* of the Consolidated Law on Finance[138]

The application for authorisation by third country firms other than banks, under the freedom to provide services, with or without ancillary services, to qualified counterparties or professional clients by law in the cases referred to in Article 28, Paragraph 6 of the Consolidated Law on Finance, signed by the legal representative of the firm and in compliance with the existing regulations on stamp duty, shall indicate:

a) full name (including the registered name and any other commercial name used); legal form; registered address and, where different, address of the Directorate General; contact details (telephone and fax numbers, as well as email address); website , where available; national identification number, where available; Legal Entity Identifier (LEI) and Business Identifier Code (BIC), where available;

b) contact details of the person responsible for the application (including telephone number and email address);

c) list of the investment services and activities, ancillary services and financial instruments that the firm intends to provide in Italy under the freedom to provide services, and whether

138 Heading thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Art. 28, Paragraph 6 of the Consolidated Law on Finance" with the words: "Art. 28, Paragraphs 6 and 6-*bis* of the Consolidated Law on Finance".

or not it will hold (even on a temporary basis) financial instruments and liquid assets belonging to clients;

d) name and address of the competent authority responsible for the supervision of the firm in the third country; where more than one authority is responsible for the supervision, information on their respective areas of expertise; links to the register of each competent authority of the third country, where available;

e) list of attached documents.

The application for authorisation shall be accompanied by the following documents:

1. General information on the applicant firm:

a) copies of corporate documents (including deed of incorporation and by-laws) certified as valid by the competent authority of the country of origin no earlier than 90 days before the submission of the application;

b) written statement issued by the competent authority of the third country indicating the investment services and activities and ancillary services that the firm is authorised to provide in the country in which it is established;

c) information on the geographical distribution of the firm and on the activities it performs;

d) legal opinion on the absence in the third country of provisions precluding the ability of the third country firm other than a bank to comply with obligations applicable to it pursuant to the Consolidated Law on Finance and the relative implementing regulations or included in directly applicable acts of the European Union;

2. Information on capital:

a) declaration by the financial auditor of the company, or equivalent body, attesting to the amount of paid up share capital and the non-existence of any insolvency proceedings or other equivalent proceedings against the firm;

b) balance sheet with date of reference of no earlier than 60 days before the date of submission of the application;

3. Information on shareholders:

a) indication of the party who controls the company, according to the notion of control referred to in Article 23 of Legislative Decree no. 385 of September 1, 1993;

b) Group Map with indication of the local position of its members and the principal activities of each firm in the group;

c) identification of all regulated entities within the group and the names of the competent supervisory authorities as well as a description of the relationship between the financial entities and any non-financial entities of the group;

4. information on management and control body, on the persons who conduct the activity:

a) list of names and full details of all the members of the management and control bodies with indication of the relative powers and of any assigned delegations, general managers and persons who perform functions equivalent to that of a general manager;

5. programme of the initial activity that the third country firm other than a bank intends to perform in Italy, including:

a) description of the activities planned for the next three years, with particular reference to the following aspects:

i. information on the planned types of operations, including the products to be used in the transactions and the types of venue envisaged for the execution of orders;

ii. information on any ancillary services that may be performed jointly with the investment services or activities for which authorisation is requested;

iii. type and geographical location of target clients;

iv. marketing and promotional activities and agreements, including the types of promotional documents used;

v. names, where available at the time of the application for authorisation, of the advisors and distributors of investment services and activities and the geographical location of their businesses;

b) description of the measures to detect and prevent or manage any conflicts of interest in the provision of the investment and ancillary services;

c) description of the measures taken in terms of product governance;

d) description of the internal control procedures relating to compliance control, internal auditing and risk management;

e) description of procedures to prevent money laundering;

f) description of business continuity plans, including systems and human resources;

g) description of the policies for managing, holding and storing records;

h) description of the manual of procedures for the performance investment services or activities and compliance with the rules of transparency and fairness in relation to the activities performed in Italy.

TITLE II
APPLICATION TO EXTEND THE AUTHORISATION TO PERFORM ADDITIONAL INVESTMENT SERVICES AND ACTIVITIES AND ANCILLARY SERVICES BY THIRD COUNTRY FIRMS OTHER THAN BANKS

Section I
Application to extend the authorisation relating to third country firms, other than banks, authorised to establish branches in Italy in the cases referred to in Article 28, Paragraphs 1, 6 and 6-*bis* of the Consolidated Law on Finance[139]

The application to extend the authorisation to provide additional investment services and activities and ancillary services in Italy by third country firms other than banks, signed by the legal representative of the firm, in compliance with existing regulations on stamp duty and including the contact details of the person responsible for the application (including telephone number and email address), shall be accompanied by the following documents:

1. written statement issued by the competent authority of the third country indicating that the firm is authorised to provide, in the country in which it is established, the additional investment services and activities and ancillary services that it intends to perform in Italy;

2. legal opinion on the absence in the third country of provisions precluding the ability of the branch of the third country firm other than a bank to comply, with regard to the additional investment services and activities for which the application to extend authorisation is made, with obligations applicable to it pursuant to the Consolidated Law on Finance and the relative implementing regulations or included in directly applicable acts of the European Union;

3. programme of the initial activity that the third country firm other than a bank intends to perform in Italy, including:

   a) description of the activities planned for the next three years, with particular reference to the following aspects:

      i. information on the planned types of operations, including the products to be used in the transactions and the types of venue envisaged for the execution of orders;

      ii. information on any ancillary services that may be performed jointly with the investment services or activities for which authorisation is requested;

      iii. type and geographical location of target clients;

      iv. marketing and promotional activities and agreements, including the types of promotional documents used;

      v. names, where available at the time of the application for authorisation, of the advisors and distributors of investment services and activities and the geographical location of their businesses;

139 Heading thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Art. 28, Paragraphs 1 and 6 of the Consolidated Law on Finance" with the words: "Art. 28, Paragraphs 1, 6 and 6-*bis* of the Consolidated Law on Finance."

b) description of the measures to detect and prevent or manage any conflicts of interest in the provision of the investment and ancillary services;

c) description of the measures taken in terms of product governance;

d) description of the internal control procedures relating to compliance control, internal auditing and risk management;

e) description of procedures to prevent money laundering;

f) description of business continuity plans, including systems and human resources;

g) description of the policies for managing, holding and storing records;

h) description of the manual of procedures for the performance investment services or activities and compliance with the rules of transparency and fairness in relation to the activities performed in Italy.

4. report on any consequent amendments to the organisational structure of the branch, including any assignment of operational functions to third parties;

5. declaration of payment of the endowment fund of the branch for an amount no lower than that established by the Bank of Italy pursuant to Article 19, Paragraph 1, Letter *d*) of the Consolidated Law on Finance, in relation to the additional investment services and activities for which authorisation is requested.

Section II
Application to extend the authorisation relating to third country firms, other than banks, authorised to operate in Italy under the freedom to provide services to qualified counterparties or professional clients by law, in the cases referred to in Article 28, Paragraphs 6 and 6-*bis* of the Consolidated Law on Finance[140]

The application to extend the authorisation to provide additional investment services and activities and ancillary services in Italy, under the freedom to provide services, by third country firms other than banks to qualified counterparties or professional clients, in the cases referred to in Article 28, Para. 6 of the Consolidated Law on Finance, signed by the legal representative of the firm, in compliance with existing regulations on stamp duty and including the contact details of the person responsible for the application (including telephone number and email address), shall be accompanied by the following documents:

1. written statement issued by the competent authority of the third country indicating that the firm is authorised to provide, in the country in which it is established, the additional investment services and activities and ancillary services that it intends to perform in Italy;

2. legal opinion on the absence in the third country of provisions precluding the ability of the branch of the third country firm other than a bank to comply, with regard to the additional investment services and activities for which the application to extend authorisation is made,

140 Heading thus amended with Resolution no. 22430 of 28.7.2022, which replaced the words: "Art. 28, Paragraph 6 of the Consolidated Law on Finance" with the words: "Art. 28, Paragraphs 6 and 6-*bis* of the Consolidated Law on Finance."

with obligations applicable to it pursuant to the Consolidated Law on Finance and the relative implementing regulations or included in directly applicable acts of the European Union;

3. programme of the initial activity that the third country firm other than a bank intends to perform in Italy, including:

   a) description of the activities planned for the next three years, with particular reference to the following aspects:

      i. information on the planned types of operations, including the products to be used in the transactions and the types of venue envisaged for the execution of orders;

      ii. information on any ancillary services that may be performed jointly with the investment services or activities for which authorisation is requested;

      iii. type and geographical location of target clients;

      iv. marketing and promotional activities and agreements, including the types of promotional documents used;

      v. names, where available at the time of the application for authorisation, of the advisors and distributors of investment services and activities and the geographical location of their businesses;

   b) description of the measures to detect and prevent or manage any conflicts of interest in the provision of the investment and ancillary services;

   c) description of the measures taken in terms of product governance;

   d) description of the internal control procedures relating to compliance control, internal auditing and risk management;

   e) description of procedures to prevent money laundering;

   f) description of business continuity plans, including systems and human resources;

   g) description of the policies for managing, holding and storing records;

   h) description of the manual of procedures for the performance investment services or activities and compliance with the rules of transparency and fairness in relation to the activities performed in Italy.

ANNEX 2

APPLICATION FOR AUTHORISATION TO PERFORM SERVICES NOT ELIGIBLE OR MUTUAL RECOGNITION BY EU INVESTMENT FIRMS

The application for authorisation to perform in Italy the services provided for under Article 18, Para. 5 of the Consolidated Law on Finance not eligible for mutual recognition by EU investment firms, signed by the legal representative of the firm and in compliance with existing regulations on stamp duty, shall indicate:

a) name (including the registered name and any other commercial name used); legal form; registered address and, where different, address of the Directorate General; contact details (telephone and fax numbers, as well as email address); national identification number, where available;

b) the services that the firm intends to provide in Italy and whether or not it will hold (even on a temporary basis) financial instruments and liquid assets belonging to clients;

c) list of attached documents.

The application for authorisation shall be accompanied by the following documents:

1. General information on the applicant firm:

a) certification, issued by the competent authority of the EU country of origin, of the investment firm's effective and regular performance in this country of the services for which authorisation is requested, in accordance with the regulations in force in this country;

b) information on the geographical distribution of the firm and on the activities it performs;

2. Information on shareholders:

a) indication of the party who controls the company, according to the notion of control referred to in Article 23 of Legislative Decree no. 385 of September 1, 1993;

b) Group Map with indication of the local position of its members and the principal activities of each firm in the group;

c) identification of all regulated entities within the group and the names of the competent supervisory authorities as well as a description of the relationship between the financial entities and any non-financial entities of the group;

3. information on management and control body, on the persons who conduct the activity and on the branch managers:

a) list of names and full details of all the members of the management and control bodies with indication of the relative powers and of any assigned delegations, general managers and persons who perform functions equivalent to that of a general manager;

b) in the event that the services to be authorised will be provided through a branch, for the branch managers:

i. personal information, including name, date and place of birth, national personal identification number, where available, address and contact details;

ii. *curriculum vitae* indicating education and vocational training, professional experience, with specification of where this experience was acquired, as well the nature and the duration of the functions performed; with reference to positions held over the past ten years, information on the decision-making powers assigned and on those delegated, as well as on any areas of operation assigned to the control of the person concerned;

iii. documentation relating to the reputation and experience of the person concerned;

iv. official certificates (if and in so far as they are available in the country of origin) or other equivalent documents relating to previous criminal convictions and investigations or prosecutions, relevant civil and administrative cases and disciplinary actions pending against the person concerned (including bans on acting as company director, bankruptcy or insolvency proceedings and similar); for ongoing investigations, information can be provided through declarations issued pursuant to Presidential Decree no. 445 of December 28, 2000;

v. information on refused applications for registration, authorisation or license to perform a commercial or professional activity; or on the withdrawal, revocation or termination of such registration, authorisation or licence; or on the expulsion by a regulatory or governing body or by a professional body or association;

vi. information on any dismissal from a position of work, removal from a position of trust, a trust relationship or similar;

vii. information on any assessment of reputation and experience as a buyer or person who directs activities already carried out by another authority (including the date of the evaluation, the identity of the authority and the outcome of the assessment);

viii. description of the interests or financial and non-financial relationships of the person in question and his/her close family members with the members of the management body and with the holders of key functions in the same institution, parent company, subsidiaries and shareholders;

ix. minutes of the meeting of the management body or, in the case of sole administrator, of the control body, in the course of which the body expressed its opinion on the requirements of the branch managers referred to in Article 13 of the Consolidated Law on Finance. The minutes must be accompanied by the documents used as the basis of the assessments undertaken;

x. information on the minimum time that the branch managers shall devote to performing their functions (annually and monthly);

xi. information on the human and financial resources devoted to the preparation and training of branch managers (annual figures);

4. financial information:

forecasts on the services to be authorised, including:

a) forecast balances (balance sheet and analytical profit-and-loss account) of the first three years, which shall include:

i. the intended investments, with indication of the total amount, the depreciation schedule and forms of financing, as well as the investment duration or time schedule;

ii. operating costs, according to category;

iii. expected economic results;

iv. trend of cash-flow;

v. trend in regulatory capital and estimated prudential requirements;

b) the hypothetical plans for the aforementioned forecasts and explanations of the figures, including estimations on the number and type of client, the volume of the transactions/orders and the assets under management;

5. information on the programme of activities and on the organisational structure relative to the services to be authorised:

a) description of the activities planned for the next three years, with particular reference to the following aspects:

i. information on the planned types of operations, including the products to be used in the transactions and the types of venue envisaged for the execution of orders;

ii. information on any ancillary services that may be provided;

iii. indication of whether the services will be provided through a branch and, if so, the address of the branch and, where available, the contact details (telephone and fax numbers and email address);

iv. type and geographical location of target clients;

v. marketing and promotional activities and agreements, including the types of promotional documents used;

vi. indication of any use of financial consultants qualified for door-to-door selling and/or distance communication tools;

vii. identity, where available at the time of the application for authorisation, of the advisors and distributors of the investment services and activities to be authorised and the geographical location of their businesses;

b) organisational structure and internal control systems, including:

i. the personal details of those responsible for the functions of management and control of the services to be authorised, including detailed *curriculum vitae* indicating education, training and professional experience;

ii. a description of the resources (in particular human and technical resources) allocated to the service to be authorised;

iii. in reference to the possible holding of financial instruments and liquid assets belonging to clients, information on the arrangements for protecting client assets (in particular, if

the financial instruments and the liquid assets are held by a depositary, the name of the depositary and relative contact details);

iv. list of the functions, services or activities that are outsourced (or intended for outsourcing) together with a description of the internal control system of these functions with an indication of human and technical resources responsible for the controls;

c) documents certifying the subscription to an approved indemnity system that protects investors, limited to the activity performed in Italy;

d) description of the measures to detect and prevent or manage any conflicts of interest in the provision of the services to be authorised and any ancillary services;

e) description of the measures taken in terms of product governance;

f) description of the systems for monitoring activities, including back-up systems, where available;

g) description of the internal control procedures relating to compliance control, internal auditing and risk management;

h) description of procedures to prevent money laundering;

i) description of business continuity plans, including systems and human resources;

l) description of the policies for managing, holding and storing records;

m) description of the manual of branch procedures for the performance investment services or activities and compliance with the rules of transparency and fairness.

ANNEX 3
PRIVATE PROFESSIONAL CLIENTS

A professional client is a client that possesses the experience, knowledge and expertise necessary to make personal, informed decisions on investments and to properly assess the related risks.

I. PROFESSIONAL CLIENTS BY LAW

Professional clients are understood to mean, for all investment services and instruments:

(1) parties who are obliged or be authorised or regulated in order to operate on financial markets, in Italy or abroad, including:

a) banks;

b) investment firms;

c) other authorised or regulated financial institutions;

d) insurance companies;

e) undertakings for collective investment and the management companies of such undertakings;

f) pension funds and the management companies of such funds;

g) traders of commodities and commodity derivatives acting on their own behalf;

h) parties who trade exclusively on their own behalf on financial instrument markets and who subscribe indirectly to liquidation services, as well as to clearing and guarantee systems (locals);

i) other institutional investors;

l) stockbrokers;

(2) large firms that possess, as an single company, at least two of the following dimensional requirements:

- balance sheet total: 20,000,000 euro;
- net turnover: 40,000,000 euro;
- own funds: 2,000,000 euro;

(3) institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitisation of assets or other financial transactions.

The parties listed may request from the service provider to be treated as a retail customer and intermediaries may agree to provide them with a higher level of protection. When the client is a firm as described above, the intermediary must inform the firm, prior to any provision of services, that, on the basis of the information available, the firm is considered by law to be a professional client and shall be treated as such unless the intermediary and the client agree otherwise. The intermediary must also inform the client that it may request that the terms of the agreement be

changed in order to obtain a higher level of protection.

The client considered professional by law is responsible for requesting a higher level of protection if it deems itself incapable of properly assessing or managing the risks it assumes.

To this end, clients considered professional by law shall conclude a written agreement with the service provider that establishes the services, operations and the products to which the treatment as a retail customer shall apply.

II. PROFESSIONAL CLIENTS BY REQUEST

II.1. Identification criteria

Intermediaries may treat clients other than those included in Section I, who expressly request it, as professional clients, as long as they meet the criteria and procedures outlined below. However, they must not assume that these customers possess market knowledge and experience comparable to those of the categories listed in Section I.

The non-application of the rules of conduct laid down for the provision of services to non-professional clients is permitted when, after adequate assessment of the expertise, experience and knowledge of the client, the intermediary may reasonably consider, taking into account the nature of the transactions or services envisaged, that the client is capable of making informed personal investment decisions and of understanding the risks involved.

The possession of the requirements of professionalism envisaged for executives and administrators of parties authorised in accordance with the EU directives in the financial sector can be considered a reference for assessing the expertise and knowledge of the client.

In the course of the aforementioned assessment, at least two of the following requirements must be met:

- the client has performed transactions of significant size on the market in question with an average frequency of 10 transactions per quarter over the previous four quarters;
- the value of the client's portfolio of financial instruments, including cash deposits, must exceed 500,000 euro;
- the client works or has worked in the financial sector for at least a year in a professional position that requires understanding of the transactions or services envisaged.

In the case of legal persons, this assessment is performed in relation to the person authorised to carry out operations on their behalf and/or the same legal person.

II.2. Procedure

The clients described above can waiver the protections provided for by the rules of conduct only once the following procedure has been completed:

- clients must communicate in writing to the intermediary that they wish to be treated as

professional clients, either generally or in relation to a particular investment service or transaction or type of transaction or product;

- the intermediary must notify customers, clearly and in writing, of the indemnity protection and rights that they could lose;

- clients must declare in writing, in a separate document from the contract, that they are aware of the consequences resulting from the loss of such protection.

Before deciding to accept requests to waiver protection, all reasonable measures must be taken to ensure that the client requesting to be treated as a professional client meets the requirements stated in Section II under Part 1.

Intermediaries must adopt in writing appropriate internal measures for classifying clients. Professional clients are responsible for informing the service provider of any changes that could affect their current classification. However, if the intermediary finds that the client no longer meets the conditions necessary for obtaining the treatment reserved for professional clients, it must take the appropriate measures.

ANNEX 4

INFORMATIVE REPORT ON THE MAIN RULES OF CONDUCT FOR FINANCIAL ADVISORS AUTHORISED FOR DOOR-TO-DOOR SELLING WITH REGARD TO CLIENTS OR POTENTIAL CLIENTS

Pursuant to the regulations in force, financial advisors qualified for door-to-door selling must:

1. at the time of first contact and in any case of variation in the data indicated below, give clients or potential clients a copy of a declaration drawn up by the qualified party, detailing the identifiers of the party, the details of registration in the register and the details of the financial advisor qualified for door-to-door selling, as well as the domicile to which to send the declaration of withdrawal as provided for in Article 30, Paragraph 6 of the Consolidated Law on Finance;

2. deliver to the client or potential client, at the time of first contact, a copy of this informative report;

3. comply with the provisions of this Regulation in direct relations with clients;

4. with specific regard to the services of investment advice or portfolio management, ask the client or potential client for information that enables them to assess the suitability pursuant to Article 40 of this Regulation. In particular, financial advisors qualified for door-to-door selling must ask clients or potential clients for new information on:

   a) investment knowledge and experience with regard to the specific type of instrument or service;

   b) their financial situation, including the ability to sustain losses;

   c) the objectives of the investment, including risk tolerance.

   and must inform the client or potential client that, if they do not communicate the new information referred to in points *a*), *b*) and *c*), the intermediary that provides the service of investment advice or portfolio management shall not provide the aforementioned services. Financial advisors qualified for door-to-door selling are also obliged to provide retail clients with a statement of suitability as part of the investment advice service, according to the provisions of Article 41;

5. with specific regard to the investment services and activities other than investment advice and portfolio management, they must ask clients or potential clients for information that allows them to assess the appropriateness of the transactions. In particular, financial advisors qualified for door-to-door selling must ask clients or potential clients to provide information on their investment knowledge and experience with regard to each type of instrument or service;

6. they shall not encourage clients or potential clients not to provide the information and developments described above;

7. They must deliver to the client or potential client, prior to signing the purchase document or subscription of financial products, a copy of the prospectus or other information documents, where prescribed;

8. they must issue clients or potential clients with copies of contracts, provisions and of any other act or document they sign.

9. they may receive from clients or potential clients, for subsequent immediate transmission, exclusively:

   a) bank cheques or bank drafts payable to or transferred to the qualified party on behalf of which they operate or to the party whose investment services and activities and financial instruments or products are offered, with a due non-transferability clause;

   b) payment orders and similar documents that have as a beneficiary one of the parties indicated in Letter a);

   c) registered financial instruments or financial instruments to order, payable to or transferred to the party providing the investment services and activities on offer.

10. in the case where the intermediary on behalf of which they operate is not authorised to provide advice services or in the event that the client has failed to provide the information that enables the provision of advice services, they cannot provide recommendations presented as being suitable for the client or based on consideration of the characteristics of the client;

11. they cannot receive from clients any form of compensation or of financing;

12. they cannot use the online access codes to reports belonging to or in any way connected to clients or potential clients, except as provided for by Article 159, Paragraph 7.