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Financial Intermediaries in Investment Services or Activities

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3.1 Persons who can provide investment services and activities subjected to authorization

According to European Directives on markets in financial instruments (no. 2004/39/EC of 21 April 2004, now partly recast¹ as no. 2014/65/EU of 15 May 2014 and partly replaced by EU Regulation no. 600/2014), persons who provide investment services and/or perform investment activities² as a regular occupation or business on a professional basis must be subject to authorization by their home Member States, with the exception of credit institutions authorized under Directive 2013/36/EU (previously under Directive 2000/12/EC), which do not need any additional authorization.

Art. 18(1) of Italian Legislative Decree no. 58 of 24 February 1998 (Testo Unico delle disposizioni in materia di intermediazione finanziaria, hereinafter referred to as TUIF) states that the provision of investment services and activities to the public on a professional basis is restricted to investment companies and banks. Italian investment companies must be authorized by the Consob (after consulting the Bank of Italy), whereas Italian banks are authorized by the Bank of Italy. These intermediaries are allowed to provide any type of investment service and activity,³ as well as non-core services and related and instrumental activities (reserves of activity unaffected).

However, there are other intermediaries which can perform only some of the above-mentioned services or activities. That means that the list of subjects authorized to provide investment services
or activities to the public on a professional basis is longer, and consists of:

- investment companies (see Art. 18(1) of TUIF);
- banks (see Art. 18(1) of TUIF);
- asset management companies (SGR: Società di Gestione del Risparmio), limited to portfolio management and investment advice activities; if authorized to provide the AIF (alternative investment funds) management service, they may also professionally practise towards the public the reception and transmission of orders service (see Art. 18(2) of TUIF);
- financial intermediaries entered in the register referred to in Art. 107 (recte: Art. 106) of Italian Legislative Decree no. 385 of 1 September 1993 (Testo unico delle leggi in materia bancaria e creditizia, hereinafter referred to as TUB), limited to: dealing for own account and execution of orders for clients, with exclusive regard to derivative financial instruments; subscription and/or placement with or without firm or standby commitments to issuers (see Art. 18(3) of TUIF);
- regulated stock exchange companies, limited to managing multi-lateral trading systems (see Art. 18-ter of TUIF);
- financial advisors, that is, natural persons entered in a specific register who provide advisory services on investment matters, without holding sums of money or financial instruments pertaining to customers (see Art. 18-bis of TUIF);
- financial advisory companies, entered in a special section of the above-mentioned register: they are public or private limited companies which offer investment advice services, without holding sums of money or financial instruments pertaining to customers (see Art. 18-ter of TUIF);
- trust companies referred to by Italian Law no. 1966 of 23 November 1939 (società fiduciarie), which practise the business of the custody and administration of securities under transitory provisions (see Art. 199 of TUIF);
- stockbrokers (agenti di cambio) still entered in the professional national roll (now closed to new candidates), who may perform the investment services referred to in Arts 1(5)(b), (c-bis), (d) and (f), namely execution of orders for clients, placement without firm or standby commitment to issuers, investment advice. They may