Italian Banking Insurance and Finance Federation

The Italian financial community's priorities in the European agenda of 2019-2020

November 2019

This note was prepared by the Italian Banking Insurance and Finance Federation (FeBAF) and its members to undertake a joint dialogue with Italian MEPs.

The Italian Banking Insurance and Finance Federation (FeBAF) was established in 2008 by the Italian Banking Association (ABI) and the Italian Insurance Association (ANIA). The Federation, which acts as a forum for the investment and financial industry, currently comprises thirteen associations operating on the financial markets: ABI, ANIA, AIFI, and ADEPP, AIPB, ANFIR, ASSOFIDUCIARIA, ASSOFIN, ASSOGESTIONI, ASSOIMMOBILIARE, ASSOPREVIDENZA, ASSORETI, ASSOSIM.

The Federation, which has offices in Rome and Brussels:

- is open to collaboration with other business associations;
- promotes the role of the banking, insurance and financial industry in harmony with Italy's general interests;
- represents the positions of member associations on economic and social policies in relations with political and monetary authorities and trade associations and towards public opinion;
- protects business logic and spreads a culture of competitiveness, by promoting transparency and service to consumers and savers in the banking, insurance and financial industries.

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Introduction

Old uncertainties and new challenges: how to define the new priorities for the Italian financial sector at the start of the new European legislature

The new European Parliament legislature, the ninth since the direct European elections, starts with few certainties and with many unknowns: the global political instability, the weak growth of Western economies compared to the emerging ones, the trade wars between East and West, and the difficult economic recovery in our continent.

Based on this situation, the prospects, objectives and mandates of the stakeholders are adapting and reshaping in a dynamic and unpredictable socio-economic and political environment.

The Italian Banking, Insurance and Finance Federation (FeBAF), together with its thirteen members, represents the Italian financial industry, questions itself on its needs and works on the instruments needed in order to support our financial community in the wider context of the real economy and for the sustainable development of our country and the European Union, of which Italy is one of the founding members.

The document presented today aims to provide the basis for a reflection on the latest regulatory issues and on the related scenarios, problems and opportunities. It aims to be an instrument of comparison and support for all related political decisions through a technical contribution, which evolves in the light of new evidences, and which aims to support the parliamentary and non-parliamentary activity of the Italian representatives to the European institutions.

In this context we are pleased to present below, and in summary, the priorities and the main objectives of the Italian financial sector in terms of European legislation and policies. Thirteen priorities. Thirteen, like the number of our associates, but concerning all the components of the assets industry and giving a unified and coherent expression to the vision of the Italian financial community, in the broader and more general development of the European economy and society.

1) Ensuring that financial stability and economic growth go hand-in-hand

The objective of financial stability cannot be merely a channel for pursuing the economic growth target. Changes in the regulatory framework involving the Italian and European financial system as a whole must be incorporated into a broader vision, carrying out ex-ante impact analyses to measure any effects (desired or unwanted) that new laws may have on the real economy. Financial stability and economic growth cannot be separated one from the other within the actions and logic of “better regulation”, but must be seen as two sides of the same coin.

2) *Making the European and international regulatory framework simpler, more transparent, coordinated and proportionate*

Due to the absence of a real European Constitutional Charter, nowadays it is necessary to push for Europe to continue unhesitatingly in the process of regulatory harmonization throughout the adoption of a Single Rulebook in the most relevant socio-economic issues, such as criminal, commercial and bankruptcy law. Furthermore, the implementation in the European regulatory framework of the standards drawn up at global level (Basel III rules) must carefully asses the typical features of the European economic and social system – based on SMEs and households – in order to avoid competitive disadvantages compared to other legal systems. The international rulebook must not create competitive disadvantages with respect to other economic areas, but must always be simple, transparent, proportional and consistent.

3) *Completing the Banking union and harmonising the rules for banking resolution*

Ten years after the financial crisis, the priority is to complete the Banking union and define a harmonised European regulatory framework responsible for crisis management of banks not subject to resolution and, more generally, to make the system of resolution more definite, transparent and efficient by reducing its burden and improving its governance, both at European and national level.

4) *Relaunching the Capital Markets Union in Europe after Brexit*

We need to strongly resume the project of the Capital Union Markets (CMU) in order to enhance the competitiveness of the European financial and entrepreneurial system. A comprehensive project supporting the real economy as an instrument of long-term funding that can be placed on international markets - which would lower costs and diversify risks - such as *European Secured Notes*. Costs are also mentioned for other instruments that would make European financial markets more efficient. The long legislative process that is leading to the emergence of Pan-European Personal Pensions Products (PEPP) should avoid high compliance costs, provide for equal treatment between different types of providers and consider the existing contractor protection rules. The CMU project will receive a new boost once the Brexit framework will have been fully clarified. This will mean that we will have to also achieve a harmonised and homogenous framework that facilitates the collection and management of alternative funds throughout Europe, but also taking into account the different legislative contexts when implementing and revising the Directives, so as not to penalise the functioning of the operators from the outset. Finally, a further step forward in the harmonisation of Community law in the field of CMU should consider the role of fiduciary companies. A long-term vision needs, on the one hand, to safeguard the factors supporting real economy financing - such as the *SME Supporting Factor* – and to extend and approve other preferential treatments both to infrastructure which comply with particular requirements ("*Infrastructure Supporting Factor*") and to categories of retail financing, such as the sale of a share of the salary or pension (employee loans); on the other hand, to introduce new asset classes for long-term equity investments providing capital incentives and international accounting standards that do not penalise operators.

5) Focusing on sustainable development and its financing

Among the main challenges that lay ahead for the next European Parliament – especially for the financial sector – is the issue of sustainability and how to promote sustainable and innovative investments towards a green industrial policy, assuring social equity to the entire process. Financial operators are key actors for an efficient transition to a sustainable economy and society, in intermediating between savers-investors and the world of production. Their ability to direct savings and to vehiculate resources towards the Sustainable Development Goals through sustainable finance, could be boosted by policy-makers by building on already existing market practices and avoiding displacement effects. For example, it would be wise to improve those finance practises that are sensitive to social issues and to local communities, which are typical of Italy and other European countries. In particular, in the case of 'green finance' the Italian financial industry is ready to back the European Green Deal and the necessary changes. The specificities of the above-mentioned European socio-economic system would be penalised by a "one-size-fits-all" model. Therefore, it would be advantageous to consider approaches and measures that take account of the differences among the different financial sectors and their inner proportionality. Differences and contingencies that can be bridged through collaborative approaches and partnerships – both at a domestic level (FeBAF is a member of the Italian Observatory for Sustainable Finance OIFS, coordinated by MATTM, where it promotes the constitution of an Italian Financial Center for a Sustainable Finance, and it is also a member of the Italian Alliance for a Sustainable Development – AsviS) and at a global level (FeBAF adopted the Principles for Responsible Investment - PEI and Principle for Sustainable Insurance – PSI of the United Nations (UN).

6) Disaster Risk Reduction and the role of Insurance (companies)

As an active member of the Private Sector Alliance with the UN (UNISDR) for a resilient Society to disasters (ARISE), FeBAF is committed to raise awareness on the matter of disaster risks, promoting the implementation of projects and activities for the achievement of the objectives established in the Sendai Framework. Preventing and handling properly disaster risks is essential in order to make operational systems more resilient and less vulnerable to external shocks. A mixed model comprising of both the public and private sector in the so-called management of "CatNat" (natural catastrophies) could improve the resilience of our communities. Insurance companies can play a pivotal role in this improvement, given their role as professional risk managers. Evaluation capacities and risk management - core activities of the insurance industry – alongside the huge amount of data available to insurance companies are key components of the above-mentioned process, through an enhanced confidence and rapidity in reparations, less obligations in public finances and more sensitivity to preventive measures that seek to promote the mitigation and an enhanced adaptation to climate phenomena. For this purpose, FeBAF advocates an increased integration of disaster risk and climate risk reductions to those of the sustainable economy and the CMU.

7) Exploiting technological innovations (Fintech & Insurtech) without disregarding equality, dignity and privacy

The next European legislature will be forced to methodically and co-ordinately create employment and development for enterprises and citizens, by fostering a European ecosystem capable of exploiting technological and digital innovations. In this context, the utmost attention should be directed to cyber-security, data access, management and protection. The regulatory framework should ensure a level playing field to all providers of data management services, primarily to financial and payment services, regardless of their legal status according to the principle “same risks, same rules”. Furthermore, this should apply with regard to those large platform activities that involve social and commercial networks. Legal certainty and the correct allocation of responsibilities are essential in order to ensure the sound development and use of new technologies.

8) Recalibrating taxation schemes for online platforms (webtax)

Taxation schemes too must be consistent with European strategic aims and must also consider the effective transfer of value and the contribution of all economic actors to common welfare. This necessity is directed particularly towards those economic activities developed by large platforms, which offer services and products through ‘internet’ that usually avoid taxation schemes applied to other firms, resulting in an erosion of competition and public finances of Member States.

9) Continuing the fight against financial crimes

Finally, the fight against financial crimes, such as money-laundering and financing terrorism is a priority for the Italian financial sector, which is ready to strengthen its cooperation with national, European and international public authorities in order to make the most of information technologies in this sector. In this sense, greater efforts must be conducted to ensure that cyber-financial crimes are perceived as a priority by all the stakeholders involved.

10) Strengthening public and private initiative for an adequate financial education

These observable patterns of change cannot be tackled without an adequate, strengthened, civic and financial education. In this field, FeBAF and its associates have long been committed to promoting financial education at all ages, by also working together with the Foundation for Financial and Savings Education (Feduf).

11) ***Revamping the role of institutional investors in providing support for the real economy***

The global competition, the boost for technological innovation and the need for an attractive scale for investors are capital-intensive challenges that European companies are not able to face by resorting to the banking channel alone. There is a need for an overall quantitative and qualitative growth pathway of the entrepreneurial and financial fabric of the European Union and of our 'Country System'. Providing diversified sources of capital is crucial in order to increase our companies' ability to withstand possible economic recessions and to increase the resilience of the financial market during economic shocks. This is a key objective pursued through the Capital Markets Union (CMU), but the commitment of institutional investors to financing the real economy needs to be strongly promoted. Institutional investors, especially insurance companies and pension funds, are natural long-term investment alternatives.
FeBAF and its associates, together with pension funds, insurance companies and private equity, private debt and venture capital operators, and all other stakeholders, including Confindustria, work pro-actively to implement a national strategy for the development of corporate finance, capital markets, growth of our companies and businesses and the companies' ability to get better access to capital.

12) Strengthening national guarantee schemes to support SMEs

European SMEs heavily rely on different forms of debt such as account overdrafts, bank loans or leasing contracts, whereas the use of capital is "relevant" only for a small minority. For this reason, it is necessary to support SMEs in getting access to the banking channel through appropriate credit guarantee schemes and to foster the development of the European capital markets and the 'cultural' approach to debt by our enterprises. The aim is to reduce the level of uncertainty to which SMEs are exposed by absorbing a portion of lenders' losses in the event of default. Our position is clear: Italy and the European Union must encourage investment and, in the light of current budgetary and regulatory constraints, the need for various and efficient instruments. In 2015, FeBAF set up a national Task Force on Credit Guarantee Schemes (CGS) which includes member associations together with individual financial operators (banks, insurance companies, funds), the association of companies and trusts, policy makers, regulatory authorities, local authorities (Regions). This working group has elaborated – and continues to do so - several operational suggestions in order to enhance the effects of one particular instrument - the National Guarantee Fund for SMEs - that has achieved important results through the enhancement of synergies both at European level (e.g. with the EU Structural Funds and the EU Investment Plan) and at local level (with the contribution of individual regions).

13) *Encouraging and improving neighbourhood relations and economic-financial relations with European partners, the Mediterranean and the Eastern and South-Eastern European area*

The development of bilateral relations at European and International level is a primary objective that aims to cultivate relations with institutions and third parties that represent, in their respective national realities, significant economic interests, and that contribute, each in its own specificity, to the development of sector-specific European policies. The Dialogues on financial services held by FeBAF with its counterparts since 2014, in particular with France, Germany and Great Britain, represent an important exercise for the development of convergent economic policy stances and, at the same time, for the enhancement of the distinctive traits of financial services at national level. FeBAF has given its commitment to strengthening the dialogue and the relaunching of economic and financial integration with South-Eastern Europe area and the countries on the southern shore of the Mediterranean. This dialogue is part of the broader partnership programme with the Western Balkans and the Euro-Mediterranean countries launched by the European Commission and the European Parliament, also with reference to the opportunities offered by the extension of the Juncker Plan to third countries (outside the EU) and the strengthening of the InvestEU programme. In these areas, our country and the financial community represented by FeBAF can take a leading position, not only on the development of mutually beneficial economic-financial relations, but also contributing to allow the 'Country System' to take on an active political role and leadership in European neighbourhood policies and international cooperation. A concrete example of this strategy is provided by the Trieste-Eastern Europe Investment Forum, this year at its fourth edition, and by the Euro-Mediterranean Forum, which was inaugurated in July of this year, in cooperation with Intesa Sanpaolo and with the presence of numerous international guests.

1. The banking sector facing market modernisation and integration

Banks for Growth

The start of the new European legislature must coincide with the revision and relaunch of the European integration process.

Europe is undergoing major social, economic, demographic, technological and environmental changes. These need to be tackled with new impetus, new energy and new ideas, while respecting the principles of solidarity and subsidiarity.

First of all, it is necessary to overcome the lack of a European Constitutional Charter that provides for a solid legal basis for Europe's development and to continue the process of regulatory harmonisation through the adoption of common Codes in the most important and sensitive socio-economic areas, such as criminal, commercial and bankruptcy law.

We need to be proactive in identifying what can be improved in the European regulatory and institutional architecture, with the objective of economic growth and full employment, having regards to the competitive position that Europe deserves with respect to other geographical areas. These objectives should be the parameters against which the adoption of any new legislative proposal should be assessed through careful impact assessments.

Banks are an integral part of the process for relaunching the Italian and European economies alongside institutions, businesses and households, and every day they perform a driving role for economic development, with moral rigour, commitment, professionalism and responsibility.

The stability of the financial sector is a condition for growth, but without growth there is also a lack of stability. The banking regulatory framework must be stabilised and made simpler, more transparent, coordinated and proportionate, in order to reduce systemic risks and ensure the soundness of the banking sector without reducing the ability of banks to support sustainable, equitable and inclusive growth. The project to build a single Europeanfinancial market must be revitalised to give our economy a competitive capacity comparable to that of the major world economies.

We need an integrated vision, also from a regulatory perspective, to manage and make the most of the transition to a digital and data economy, ensuring that no one is unduly advantaged or left behind, that fundamental rights are always protected and strengthened, and that individuals and their personal dignity remain at the core of all actions.

A Europe for Economic Growth, Employment and Sustainability: The Role of Banks

1. The primary objective of the new European legislature must be economic growth, full employment, and sustainability and competitiveness of the European economy. Any new proposed legislation, in any field, must be measured against these objectives.
2. Banks are always at the side of households and businesses and must be committed, with awareness and ethical rigour, in a profound renewal to meet the needs of an interconnected digital economy, global markets and a fairer and more inclusive society that guarantees rights and obligations.
3. The regulatory environment in which banks operate must be consistent with these objectives, by reducing risk and promoting the stability of the banking sector, without constricting its role to the detriment of growth and creating competitive disadvantages with respect to the banking sectors of other geographical areas around the world. To avoid penalising the economy, the specific characteristics of the European context will need to be taken into account in implementing the international standards decided by the Basel Committee.
4. The entire regulatory cycle of a standard, from design to adoption, implementation, application, assessment and revision must always be based on the principles of better regulation, to ensure that regulatory proposals achieve their objectives at the lowest cost and with the greatest benefits for people and businesses, while avoiding all unnecessary burdens through careful impact analyses and ensuring proportionality, transparency and consistency of the regulatory framework.
5. Regulation must identify the right incentives for the funding of activities that can reduce environmental impacts or activities that generate social benefits.
6. A priority, for completing the European Banking Union, is the establishment of a harmonised European regulatory framework for managing the crises of banks that cannot be handled through the resolution process and, in general, to make the resolution procedures more certain, transparent and efficient, reducing its onerousness and improving their governance.
7. The next legislature must use an integrated and coordinated approach to support the development of a European ecosystem that makes the best use of digital technology innovations to open up new horizons of growth, employment and development for businesses and people. In this regard, full attention must be given to cyber security, data access, data management and data protection. The regulatory framework must provide a level playing field for all providers of data management services, particularly financial and payment services, regardless of their legal status, according to the principle of “same risks, same rules”, and with specific regard to the activities of large platforms operating social and

commercial networks. Legal certainty and correct allocation of responsibilities are essential to ensuring the sound development and use of new technologies.

8. The fight against financial crime, money laundering and terrorist financing is a priority for the banking sector. Banks must be at the forefront of defence against financial crime and are ready to strengthen their cooperation with public authorities to make better use of information technology in this area.
9. The changes that we are witnessing must be tackled with appropriate and strengthened civic and financial education. In this area, the banking sector has long been committed to promoting financial education at all ages.
10. Taxation systems must also be consistent with Europe’s strategic objectives and must take into account the effective transfer of value and the contribution of all economic actors to the common welfare, with particular regard to the economic activities carried out by large platforms that offer services and products through the internet and that today often escape similar forms of taxation to those of other companies, to the detriment of public finances and competition.

2. “Basel 3 implementation”

Subject

On December 2017, the Basel Committee on Banking Supervision approved a package named “Basel 3: finalising post-crisis reform”. This package contains the newest international standards aimed at completing banks’ supervision reform, started in the aftermath of the most recent financial crisis.

The new standards have been published under a mandate by the G20, according to which “no significant capital increase” should have introduced.
The new Standards must be implemented in the European jurisdiction, through modifications of Banks’ capital requirements framework; this implementation process is usually identified in the political debate as “Basel 3 implementation”.

Relevant aspects

Notwithstanding the G20 mandate, according to the firs impact assessment it is clear that the new Standards foresee relevant impact for European banks. Based on EBA’s analysis published on August 2019, the new regulatory standards would turn into a Euro 135 BN capital shortfall. It is worth noting that such shortfall considers only the capital needed to regain the regulatory minimum requirements, without taking into account the amount necessary to rebuild the current capital ratio of EU banks, which is well above the minimum regulatory requirements.
Moreover, the estimate does not consider the impact on MREL/TLAC requirements, still under consolidation for many banks.
That said, it is clear that the first figures clearly contradict the G20 mandate to avoid “significant capital increase”.
In light of the above, it is of utmost importance that, while implementing the new Standards, the European regulators will take into account such impacts, not only from a quantitative point of view, but also taking into account the economic scenario and the most recent developments of the European regulatory framework.

In more details, firstly it is important for the European legislators to take into account the need for supporting growth, in order to allow banks to do their job of supporting the real economy as well as possible.

In this sense, we ask for a correct consideration of the peculiarities of the European socio-economic system, based on SMEs and households, avoiding the introduction of constraints that would end up disadvantaging Europe compared to other jurisdictions.

In fact, it must be remembered that the pursuit of financial stability tout court, without taking into account the economic dynamics, could turn in the medium term into a source of instability.

Furthermore, it must be considered that any change in the regulatory framework impacts on banks' investment plans.
In this perspective, it is crucial that the impact analysis of the new regulation take into account not only impact on banks, but also impact on the real economy.

Secondly, it is important to consider that in recent years the European regulatory framework has been constantly strengthened with some safeguards that have already anticipated elements proposed by the Basel Committee (i.e. the TRIM or the EBA Internal models repair). Therefore, it will be important to take into account the progress made in this field, preventing the new legislation from introducing regulatory redundancies.

Our position

The Basel Committee Standards for finalizing the "Basel 3" package have a very broad scope of application, determining impacts on many aspects of banking activity; in fact they entail changes to the rules on the calculation of the requirements against credit, operational, market and CVA risks; moreover, they introduce a new constraint, the output floor, i.e. a minimum level of requirements for banks authorized to use internal models, based on the requirements calculated according to the standardised methodologies.

With specific reference to credit risk, several topics request greater attention such as treatment of credit at sight, residential mortgages, loans to acquisition/developments and construction, exposures to corporates (in particular to unrated corporates), equity exposures.
Equally, refinements would be appropriate with reference to the other frameworks, as well as the definition of an appropriate way to calculate the output floor.

With specific reference to operational risk, the transition from current internal models (no longer allowed) to the new standardised method will have a significant impact for banks. In particular, to mitigate the negative effects, it would be important that, making use of a discretion present in the International Standards, the component of the requirement based on historic losses will be sterilized for all banks, regardless of their size. It would also be desirable to introduce refinements aimed at considering the risk reduction achieved through insurance coverage.

Finally, it is essential that European legislation retains the favourable provisions introduced or extended by the recent "Risk Reduction Package" (i.e. the SMEs Supporting Factor and the Infrastructure Supporting Factor as well as the specific treatment for salary secured loans). This is of utmost importance considering that these provisions were issued with a view of mitigating financial stability and economic growth.

Next steps

ABI has already started discussing with the EBA, the Commission and the European co-legislators to represent the need for some changes as described above.

3. Measures to tackle NPLs

Subject

In March 2018 the European Commission presented its package of measures to tackle high NPL ratios. The proposed measures aim to speed-up progress already made in reducing NPLs and prevent their renewed build-up. The package includes:

- a proposal for a regulation amending the capital requirement regulation and introducing a minimum loss coverage for non-performing exposures. This measure will make banks set aside funds to cover the risks associated with future NPLs;
- a proposal for a directive on credit servicers, credit purchasers and the recovery of collateral. This measure will provide banks with an efficient mechanism of out-of-court value recovery from secured loans and will encourage the development of secondary markets where banks can sell their NPLs to investors and make use of specialised credit servicers;
- a Commission services' staff working document containing a blueprint on the set-up of national asset management companies (AMCs). The document provides non-binding guidance to national authorities on how they can set up AMCs dealing with NPLs.

During the previous legislature, the Regulation on minimum loss coverage for NPLs was approved. Instead, with regard to the Directive proposal on credit managers, credit purchasers and collateral recovery, the excellent draft compromise, presented by the rapporteurs Gualtieri and De Lange, was not adopted, although the Council and Parliament had tried to speed up the approval by deleting from the original text the part relating to the introduction of the so called "Accelerated Extrajudicial Collateral Enforcement (AECE)" mechanism.

Currently, the Council is working to reach a General Approach to this part, meanwhile the Parliament has recently decided to split the original proposal in two different Directives, one on credit servicers and credit purchasers only, and the other on AECE and it is working on both of them.

Relevant aspects

Thanks to a determined advocacy activity lead by the Italian Banking Association, the Regulation on minimum loss coverage requirements was finally approved with important improvements such as having made NPLs' impartments more consistent with their market values. Nevertheless, the impact of the new regulation remains significant, especially for banks specialised on NPLs acquisition, which are disadvantaged compared to non-banks NPLs' purchasers.

Our position

With reference to the Regulation on minimum loss coverage for non-performing exposures, ABI advocates for amendments in order to curb the excessive penalization for banks purchasing non-performing loans on the secondary market, as well as to review some minimum requirements for impaired loans.

With reference to the Directive proposal on credit servicers, credit purchasers and the recovery of collateral, ABI asks to:

- opposite any request of debtor prior consent for the disposal of impaired loans, as this would be very detrimental for the selling of large amount of NPLs stocks (consent requested by amendment proposals of some political groups, such as the Green party). Indeed, the protection of debtor's rights is satisfied by the notice of the assignment of his/her contract;
- give a specific mandate to EBA for the drafting of a new NPLs template, to be effectively used by banks and servicers, as opposed to the existing one which is excessively complex;
- put on servicers and purchasers the on-going reporting obligations toward the competent authorities;
- restrict the scope of the Directive to NPLs only, given however the authority to member States to extend it to performing exposures as well;
- opposite any "buy back" option by the debtor (i.e. the possibility for the debtor to repurchase his/her credit at the same price the bank would offer to a third-party purchaser);
- strengthen all servicers requirements, including those of governance, and make sure that servicers respect all the rights the debtor could have claimed toward his/her original creditor;
- clarify that, in the event of a sale, the seller informs its competent authority of all transfers carried out over the same period of time and not on a continuous basis.

Next steps

ABI will continue to carry out its advocacy activity toward all institutions involved.

With regard to the backstop Regulation, already approved, the aim is to find a legislative train to introduce the above-mentioned improvements on the minimum coverage loss for NPLs.

Regarding the Directive on secondary markets, ABI will advocate the above-mentioned objectives.

4. Sustainable Finance

Subject

On March 8, 2018, the European Commission published the Action Plan on the financing of Sustainable Growth. The document follows the Paris agreement of December 2015 on the implementation of measures to reduce carbon emissions aimed at stemming climate change. The objective is to reorient public and private investments towards a sustainable economy (environmental and social) in order to transform the European economic system through research and optimization in the use of available resources.

Relevant aspects

The definition of "green" and/or "sustainable" will influence future capital investments. The size of the investments that will be allocated on sustainable activities should be at least of 180 billion euros per year to reach the carbon footprint reduction targets set for 2030.

The European Commission is completing the classification of the sustainable activities (Taxonomy), through a specific "technical experts group on sustainable finance". In particular, the group of experts has collected the observations on a specific consultation since last July. The contents of the consultation will be made available by the Commission on the Platform on Sustainable Finance. The sustainable parameters will be available for further evaluation before the regulation will come into force.

The general approaches by the Consilium and Parliament on the framework for sustainable finance have been completed. The inter-institutional negotiations started on last October and the approval of the final text of the Regulation should take place by end of 2019. An important element of the negotiations will be the definition of the perimeter of delegation power to the Commission and what will be fall under the Member State remits (i.e. implementing acts).

The development of the capital market through sustainable finance remains a priority for the European Commission. The above-said development involves the implementation of different regulations, in terms of transparency on the risks connected to the Environment, Social and Governance (ESG) factors and in terms of prudential treatment for the assets linked to the factors "E" and "S".

ESMA is drafting the technical regulatory system on: i) pre-contractual transparency; ii) the content of multimedia information; iii) the content of the information to be shown in the periodical reports. The ESAs (EBA, ESMA and EIOPA) are working jointly to develop technical implementation standards (ITS) on the presentation of information on sustainable finance.

The Commission will also evaluate the inclusion of the risks associated to climate factors in the risk management policies and, based on a mandate contained in the "Risk Reduction Package", it will also examine the possibility of modifying the calibration of banking's' capital requirements.

The ESG factors will be also calibrated in the prudential regulation (SREP) through: i) the identification of sustainable assets; ii) the stress test; iii) the identification and management of risks associated with sustainable assets; iv) the assessment and management of the impact of sustainable risks on credit activities.

Our position

We share the targets set out by the European Commission with its Action Plan on sustainable finance; there is convinced support for the goal of sustainable development and for a "greener" European economy. With reference to products' innovation, we are witnessing a growing commitment by companies in protecting the environment and the society as a whole.

However, it is relevant that the European rules will create a framework that would offer the right incentives to further strengthen sustainability of economic and social development. We believe that Taxonomy implementation might not be limited to private markets, but it should also include public markets.

With reference to the Disclosure Regulation, we highlight the impact on the private capital sector. As established by the Regulation, portfolios' managers must provide reports on their approach to sustainability, on three different levels: 1. pre-contractual (to investors), 2. public (on their website), 3. periodic (through the annual report). Information will also be needed with reference to portfolios' managers remuneration and other areas of activity.

Furthermore, It will be important that, as already established by the Regulation, the principle of proportionality will be guaranteed and properly implemented, so that the portfolios' managers can implement the rules according to their size, nature, scale of activity, and the type of financial products they manage.

Next steps

We will continue to advocate for the above-mentioned positions. The ongoing Trilogue meetings on the Taxonomy Regulation represent the most important chance for exchanging views and considerations.

5. The "European Secured Notes"

One of the stated objectives of the Capital Markets Union ("CMU") is to strengthen banks' capacity to support the real economy also through longer-term funding instruments.

In this perspective, the European Secured Notes (ESN) could represent an excellent tool to achieve the afore-mentioned objective.

In greater detail, the ESNs are financial instruments that have a "dual recourse" structure similar to covered bonds, guaranteed by loans to SMEs, rather than mortgages or loans to public administrations.

In the recently issued Directive on covered bonds, the Commission was given a mandate to draw up a specific report on the possibility of introducing ESNs into the European system and, possibly, a specific legislative proposal on the subject.

ESNs would represent a new funding instrument for banks specific to financing SMEs, which thanks to the "dual recourse" structure (i.e. with the double guarantee of the issuing bank and the pool of specially segregated credits) could be more easily placed on international markets at lower costs than traditional bonds. In essence, there would be the possibility of having lower funding cost for banks and therefore better conditions for SMEs to access credit.

As for covered bonds, it would also be desirable for ESNs to be provided with a preferential prudential treatment (in terms of lower capital absorption for banks purchasing these securities), in line with their lower risk.

6. Pan-European Personal Pension Products (PEPPs) Regulation

Subject

On 25 July 2019, the Pan-European pension products (PEPPs) Regulation was published in the EU Official Journal, giving way to an intense "second level" regulatory activity for the European Insurance and Occupational Pension Supervisory Authority (EIOPA).
PEPPs will be characterized by the same standard elements in the EU and will be offered by a wide range of qualified entities, such as banks, insurance companies, pension funds, investment firms and asset managers. PEPPs will also offer individuals a new EU-wide saving option which will complement national personal and occupational pension schemes, but mostly it will allow savers to continue to contribute to their supplementary pensions even when they move to another Member State.

Considering the huge number of potential buyers and the variety of supply companies as well as the high number of Member States involved, EIOPA is working on a complex system of second-level technical regulations to create a "*level playing field*" among all stakeholders.
This regulatory activity is entirely under the responsibility of the Supervisory Authority, which will issue 7 regulatory technical standards (RTS), 2 implementing technical standards (ITS) and 3 delegated acts (DA).

Particulary interesting are:

- the indication of types of costs and fees that fall within the expenses included in the cap on costs envisaged for the Basic PEPP ;
- the description of the content, the timing of the revision and the methods of delivery of the PEPP KID, i.e. the pre-contractual information document that will allow potential contractors to understand the functioning and characteristics of the pension product;
- the definition of risk mitigation techniques which, based on the provisions of the PEPP Regulation is, together with capital guarantees, a prerogative for the basic option.

Our position

Costs

The PEPP Regulation introduces a cap on costs for the basic option or Basic PEPP equal to "1%

of the capital accumulated in the year". The text also clarifies that the types of costs to be included in the cap must be specified by appropriate RTSs by EIOPA.

With regards to the cap on cost , which already raised doubts in the first level standard, EIOPA should consider a number of aspects – in particular, that the imposition of a cap on cost does not always represent a measure taken to protect investors but, on the contrary, could result in an obstacle to competition, not taking into account the costs associated with the production of the product, its distribution and consultancy. In any case, we see the need for the essential characteristics of certain products, provided for by sector-specific rules to better protect the PEPP subscriber's investment security, to be considered and represented in such a way that these products are not penalized and their specificity safeguarded.

Disclosure

In order to provide key information to the potential saver, the PEPP Regulation provides the PEPP KID, whose content, revision and distribution shall be regulated by 3 different EIOPA RTSs.

We are seeking three desired outcomes: that all changes on this issue will be introduced simultaneously in order to avoid compliance costs; that the document shall highlight the social welfare nature of the product, guaranteeing flexibility in the texts so as to comply with the different national projections; finally, that the document will emphasize both the insurance and investment components.

Basic PEPP and risk mitigation techniques

According to the Regulation, the PEPP can have up to 6 investment options , among which the basic PEPP is included. A fundamental difference between the basic PEPP and the PEPP linked to other alternative investment options lies in the fact that the basic PEPP should be characterized by a guarantee on capital or by risk mitigation techniques consistent with the aim of allowing the investor to recoup the capital. With respect to risk mitigation techniques, EIOPA is required to issue specific RTSs which should be defined as clearly as possible.

Next steps

By August 2020, EIOPA will have to develop the second level standards. Following that, the texts will be preliminary discussed by the European Commission and will be further scrutinized by the European Parliament and the Council of the EU, which can take up to 6 months. Within two days of passing this scrutiny, and with the publication in the Official Journal of the second level standards texts, the PEPP Regulation will begin its implementation. It is estimated that, at best, the Regulation will start in the second half of 2022. The long legislative process that is leading to the emergence of the first pan-European pension product will be closely monitored.

7. Implementation of the “Risk Reduction Package”

Subject

The "Risk Reduction Package" was definitively approved in the terminal phase of the previous legislature. The various rules (Directive and Regulation on capital requirements, Directive and Regulation on bank resolution) were published in the European Official Journal on last June and entered into force during the same month (June 27).

With regard to the application date, these rules have a heterogeneous entry into force timeline: the Capital Requirements Regulation (CRR2) applies from 28 June 2021, subject to certain exceptions; The Regulation on the Single Resolution Mechanism (SRMR) applies from December 28, 2020. The Capital Requirements Directive (CRDV) and the Recovery and Resolution Directive (BRRD2), once implemented by Member States, apply from December 29, 2020, subject to certain exceptions.

Relevant aspects

The Italian Banking Association has proposed and strongly supported some important proposals that have been confirmed in the final version of the Banking Package. To complete the picture, it is considered useful to recall them, also indicating the date of application of the individual provisions.
Within the framework of the capital requirements regulations, we highlight:

- adjustment of the LGD for massive disposals of NPLs

The legislation is aimed at correctly calibrating the calculation of the LGD (one of the parameters used by banks that calculate the capital requirements for credit risk with internal models) in the case of massive disposals (disposals that involve at least 20% of the portfolio of impaired loans), carried out between November 23, 2016 and up to 3 years following the entry into force of the new regulation (i.e. not later than June 28, 2022). The provision is explicitly applicable starting from 27 June 2019, date of entry into force of the new Regulation (see below).

- extension of SMEs Supporting Factor

The Regulation provides for the extension of the "SMEs Supporting Factor", which allows the application of: a further reduced Risk Weight for loans to SMEs up to 2.5 million euros; and one (new) reduced Risk Weight for loans exceeding 2.5 million, with no maximum threshold. The provision is applicable from June 28, 2021.

- approval of the Infrastructure Supporting Factor

The legislation introduces a preferential treatment for financing infrastructures which satisfy particular structural, financial and environmental requirements. The provision is applicable from June 28, 2021. Possible changes are expected following the report of the Commission expected by June 28, 2022.

- salary/pension secured loans

The legislation includes within the generic category of retail financing a more correct prudential treatment for loans guaranteed by a portion of the salary / pension, in consideration of their low probability of default (PD) and the mandatory guarantee system which is extremely sound. The provision is applicable from June 28, 2021.

- deduction from banks 'capital of investments in certain types of software

The new legislation excludes from intangible assets (that must be deducted from CET1) the software which, following an accurate economic evaluation, will be considered as not subject to economic deterioration in the event of insolvency or liquidation. This provision is applicable from 12 months after the entry into force of the EBA regulatory technical standards (submitted by 28 June 2020) adopted by the Commission (see below).

- temporary regime for Repo and Reverse Repo

The legislation, in the context of liquidity requirements (NSFR), introduces a more favorable transitional regime (0% for guaranteed Repos, 5% for unsecured Repos) lasting 4 years. The provision is applicable as of June 28, 2021. The Commission is empowered to supplement the Regulation by adopting delegated acts that specify the detailed liquidity requirements by June 28, 2024.

- introduction of proportionality for banks with total assets of less than € 5 billion

The legislation provides for various elements of proportionality towards smaller banks (so-called "small and non-complex institutions"), including a reduction in reporting measures that should lead to a cost reduction of between 10% and 20% "(to be effective after the adoption by the Commission of technical standards expected for June 28, 2021), ad hoc disclosure requirements, a simplified NSFR regime and a simplified standard methodology for interest rate risk in the banking book (all three applicable from June 28, 2021) and ad hoc remuneration policies (applicable from December 29, 2020).

- extension of the possibility for non-conglomerate financial institutions not to deduct insurance undertakings from capital (known as "Danish compromise")

The legislation extends from 2019 to 2024 the possibility for non-conglomerate financial institutions to avoid the deduction of stakes in insurance companies. The provision is applicable retroactively from 1 January 2019.

Resolution (BRRD2):

- introduction of a proportionality requirement in the definition of MREL linked to business models

- introduction of a grandfathering clause for liabilities issued before June 27, 2019, date on which this provision is explicitly applicable.

- deferral of the entry into force of the full requirement to 2024 (with an intermediate verification phase to 2022)

The aforementioned first level regulations contain numerous mandates to **second level standards** (**regulatory technical standards**) or to **guidelines** or **opinions** to be issued by the European Commission and the European sectoral authorities. These documents must be issued in a time window that runs from 2019 to 2025.

Our position

ABI is working with the European Commission and the European authorities (in particular EBA and ESMA) to achieve the confirmation of the positive elements contained in the Level 1 legislation and to mitigate the potential negative effects potentially arising from new legislations.

Among the numerous provisions, particular attention is drawn to:

- the regulatory technical standards that the Commission will have to issue on the non-**deductibility from capital of investments in certain types of software (Article 36 of the Capital Requirements Regulation).**

As stated above, the new Regulation provides for the possibility of excluding software from intangible assets (to be deducted from CET1) which, following an accurate economic assessment, will be deemed not liable to economic deterioration in the event of termination, insolvency or liquidation.

By 28 June 2020, the EBA must issue a proposal for technical standards to define the range of software that can be subjected to the measure.

In this regard, It should be noted that, according to the previous Regulation, European banks deduct the full value of their software from capital, unlike those of the United States and Switzerland.

On this issue, the EBA will launch a consultation in the first half of 2020.

- **adjustment of LGD for massive disposals of NPLs**

As mentioned above, the legislation is aimed at correctly calibrating the calculation of the LGD in the case of massive disposals of NPLs, under certain conditions. This article gives rise to potentially different readings. Therefore, ABI is discussing with EBA and the Single Supervisory Mechanism (SSM) so that the interpretation of the rule could be consistent with the original ratio, thus allowing to include in the correct LGD calculation massive disposals of NPLs that took place in a period of time in which, due to the time constraints of such disposals and due to the absence of a developed secondary market, the devaluation of NPLs has been significantly above the real market value.

8. The review of Solvency II

Subject

Solvency II, the new European prudential supervision regime, entered into force in all EU countries on the 1st of January 2016.

The *Solvency* Directive provides for a series of periodic audits and reviews of the functioning of the system, the first of which, concerning the Standard Formula for calculating the *Solvency Capital Requirement* (SCR), ended the 18th of June 2018 with the publication on the EU Official Journal of the text modifying the Solvency II Delegated Acts, whereas the second, wider and centered on the first level legislation (the Directive) and, in particular, on the measures concerning the insurance products with long-term guarantees and on those concerning the equity risk, started the 11th of February 2019 and is to be implemented by 2020.

Relevant aspects

The main topics discussed during the **first phase** were: the functioning of the volatility adjustment and, in particular, of its national part, which did not operate according to expectations (although the revision was scheduled for the second phase); the risk margin calculation method and, in particular, the cost of capital level calibration methods; interest rate risk calibration; the introduction of a new asset class (with less penalizing capital requirements) for long-term equity investments; the methods for calculating the capacity to absorb deferred tax; the calibration of capital requirements for investments in unrated debt securities and in unlisted equity securities; the calibration of pricing risk sub-modules for credit and deposit branches and underwriting risks.

The **second phase** of the process will concern:

a) measures relating to insurance products with long-term guarantees (LTG), including in particular, *volatility adjustment* and *matching adjustment*, and to equity risk;

b) methods, hypotheses, standard parameters that can be used in the calculation of SCR with standard formula,

c) the supervisory rules and practices relating to the calculation of MCR;

d) group supervision and group capital management;

e) supervision of cross-border activities;

f) strengthening the proportionality principle.

Our position

First phase: 2018 review

- The first phase of the Solvency II review saw the Association working on several issues, and within the limits set by the scope of intervention established by the European Commission, to highlight the unsatisfactory functioning of the *volatility adjustment* (VA) mechanism. The result was positive and culminated in April, with the modification of one of the two parameters for activation of the national part of the VA, now more reachable.
- The amendment text to the Delegated Acts, published last June 18, reflects, overall, the technical advice provided by EIOPA at the end of the consultation period, including: modifications relating to the prudential treatment of unrated debt securities (which provide for the introduction of criteria aimed at identifying comparable unrated obligations, in terms of capital requirement, to BBB or A rating obligations); the introduction of a new asset class for long-term equity assets; postponement of the revision of the risk calibration methodology linked to interest rates.
- The response to the requests of modifying the calculation of the risk margin cost of capital component was, on the other hand, negative; the Commission rejected the requests of the industry to lower the level from 6% to 3%.
- Although we share the guiding principles, the judgment on the modifications relating to the *equity* module is just as negative. It involved the introduction of two specific sub-modules (*long term equity, unlisted equity*), and the *spread* model, which provided for the introduction of a methodology allowing to equate, in terms of capital charge, unrated securities with those with rating. In both modules, the issued provisions need important and fundamental clarifications and/or interventions, to be applied by companies.

Second phase: 2020 review

- With reference to the LTG package of measures, **the Commission asked EIOPA to examine two possible approaches to *volatility adjustment***, based, respectively, on the concepts of illiquid liabilities and representative portfolios, and on those of cash-flow matching and entity-specific portfolio.

- In Insurance Europe some national Associations expressed their preference for the first approach, others for the second. **It has been decided, for now, to work on the details of both approaches,** also evaluating options such as the Dynamic VA in the standard formula as well.
- **ANIA**, while expressing the need to investigate in detail all the hypotheses put forward, **has so far shown a preference for the entity-specific approach**, capable of eliminating (as recognized by the EIOPA document) some of the critical issues identified on the functioning of VA and in particular the Country component.
- As to the other aspects of the audit, ANIA considers a priority: the review of the changes to the *risk margin* calculation method (already proposed in the first phase) and to the criteria for the classification of net deferred taxes (currently classified as Tier 3); the relaxing of the applicability criteria of the *matching adjustment* (currently used only by Spain and the United Kingdom); the identification of possible synergies between Solvency II and IFRS 17.

<u>Next steps</u>

- As regards the first phase, **in autumn in the OJ of the EU the amendment concerning the threshold of activation of the *volatility adjustment* national component will be published**. Once published, Member States will have a maximum of six months to introduce the modification in their respective legal systems.
- With regard to the second phase, **between October and November EIOPA will implement a consultation on the document of response to the Commission; in the first quarter of 2020 a field test will be carried out on the identified assumptions** and by June 2020 EIOPA will have to send the requested advice to the Commission.
- By the end of 2020, the Commission could present the proposal of modification to the SII directive, which will be subject to a co-decision procedure.

9. Commission Proposal for a directive to amend Motor Insurance Directive (MID)

Subject

The 24th of May 2018 the European Commission adopted a proposal for a directive amending directive 2009/103/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to ensure against such liability.

The proposal aims at strengthening European legislation, offering, on the one hand, greater protection to victims of motor vehicle accidents and, on the other, seeking to improve the rights of insureds. The enacting terms, in fact, modify the previous V Motor Directive, smoothing the fight against the circulation of uninsured vehicles, facilitating the task of the competent authorities and aligning the minimum levels of insurance coverage throughout the EU. Finally, it clarifies the scope of the directive in light of the recent rulings of the EU Court of Justice.

Relevant aspects

In particular, the Commission proposes the following modifications:

- **Insolvency of an insurer**: if the insurer of the vehicle that caused an accident is insolvent, the victims will be compensated in their Member State of residence. In cross-border situations, final financial responsibility will be borne by the compensation body of the Member State in which the insurer has its registered office;
- **Risk certificate**: insurers will be required to process risk certificates issued in other Member States in the same way as those issued at national level. This should ensure that those who take out insurance abroad are treated like national consumers are.
- **Driving uninsured vehicles**: competences of the Member States will be strengthened to counter the phenomenon of driving uninsured vehicles, a practice that increases premiums for virtuous drivers.
- **Minimum levels of coverage**: EU citizens will be entitled to the same minimum protection conditions in each Member State they go to. The proposal fixes minimum and harmonized levels of coverage throughout the EU as regards personal injury (EUR 6,070,000 per claim or EUR 1,220,000 per victim) and material damage (EUR 1,220,000 per claim, whatever the number of victims), levelling out the difference between Member States as to the minimum level of protection.

- **Scope of the application**: to improve legal certainty, the proposal incorporates the recent jurisprudence of the EU Court of Justice into the Directive. In particular, it is clarified that the scope of the Directive includes accidents caused during the normal use of a vehicle as a means of transport, even on private property.

The text approved by Parliament includes the following modifications:

- **Scope of the application**: only vehicles subject to the homologation obligation are included, excluding electric bicycles, segways and electric scooters and vehicles used in motorized sports, but leaving the Member States freedom to impose insurance coverage if they deem it necessary.

- **Driving uninsured vehicles**: it requires the use of the Eucaris program (European vehicle information and driving license system), which allows the exchange of vehicle registration data.

- **Insolvency of an insurer**: it maintains the principle of the "Home Member State" but (i) removes the provision on the insurer's failure to respond reasonably as a condition to contact the compensation body, and subordinates it to insolvency cases, (ii) it defines in detail the conditions to be applied to compensation bodies and (iii) it requires the reaching of an agreement between bodies within two years, otherwise, the Commission will proceed with delegated acts

- **Risk certificate**: it shares the idea of the standardization of the certificate, specifying that the obligation to publish the policies regarding its use must not prejudice the pricing policies, that the value of the claims does not fall within the information to be provided and that the definition of the content and form must take place after consultation with all interested parties.

Furthermore, the Parliament's text requires that the introduction of an independent price comparison tool and of a limitation period of at least four years be applied to compensation actions for damage to persons and property resulting from a cross-border road accident.

Our position

- **Insolvency of an insurer.** Beyond some technical amendments, the proposal should be strongly supported given the relevance of the issue and in consideration of the fact that current forecasts penalize the Italian insurance market. In fact, in the last five years, the Italian Guarantee Fund has disbursed 50 million euros with little chance of recovery.
- **Scope of the application.** The scope of application should be limited to the use of identified vehicles and "in traffic", otherwise it can create critical situations in Italy with respect to, for example, vehicles that are now unregistered (electric bikes).
- **Risk certificate.** On this point, critical issues emerge. The current text interferes, in fact, in the tariff and contract freedom of companies and for this reason should be modified, also highlighting that its standardized application in all national insurance markets is impracticable given their heterogeneity. It should therefore apply only to cases of cross-border MTPL insurance for equal treatment.

Next steps

The proposal for a regulation is under discussion in the European Parliament and the Council according to the co-decision procedure. Once adopted, the regulation will enter into force 20 days after publication in the Official Journal of the European Union and will become directly applicable after one year of its entry into force.

10. Accounting standards (IFRS 17)

Subject

In May 2017, the *International Accounting Standard Board* (IASB) issued the new international accounting standard IFRS 17 outlining the new provisions on insurance contracts, which will be applied to balance sheets drawn up in compliance with the IFRS international accounting standards.

Following the publication of the standard, the EU Commission, which is expected to transpose the international accounting standard in Europe, asked EFRAG (*European Financial Reporting Advisory Group*) to provide its advice on the accounting standard.

For the purpose of the endorsement process and to understand the effects and model the requirements of IFRS 17, EFRAG sent a letter to IASB in September 2018 highlighting six aspects of the standard which would seemingly require further assessments by IASB.

Starting from October 2018 IASB carried out a number of assessments concerning possible modifications of the standard, due to the several critical points raised by the various stakeholders. Therefore, on 25 June 2019 IASB published the Exposure Draft "Amendments to IFRS 17".

Relevant aspects

Among the 25 issues which IASB analysed to evaluate possible amendments to IFRS 17 there are some which are considered as particularly important for the Italian insurance sector: requirement to group contracts per annual cohorts and year of entry into force for the standard itself. More in detail, the obligation to establish grouping per annual cohorts is not considered by ANIA as consistent with the current mechanisms of business management, above all in the case of “gestioni separate” based on mutuality between different generations of contracts. Besides all this, the matter implies significant implicit changes to the existing evaluation systems and processes and a concrete effort in terms of cost and resources. With reference to timing, ANIA believes that the first application date will require at least two extra years with respect to the date envisaged in the IFRS 17 (2021).

At EU level too, Insurance Europe had sent a letter to IASB illustrating the European insurance industry position on IFRS 17 and its implementation, stressing the main technical and operating criticalities related to the application of the standard that concern essential elements of IFRS 17 itself and that will have an impact on the income statements in terms of mismatching and accounting inconsistencies, as well as inadequate accounting representation of profits. Among the various aspects highlighted, there was also the need to defer the entry into force of the standard for two years, and the request to resume the discussion in reason of the operational criticalities observed.

The Exposure Draft published in June by IASB tackles the issue of timing, establishing a one-year deferral compared to 2021 and a similar postponement also for the temporary exemption of IFRS 9, while the topic of cohorts is not object of amendments.

In its comment letter on the Exposure Draft, EFRAG resumed the matter of cohorts by asking IASB to provide for an exception for those contracts whose cash flows influence or are influenced by other contracts' cash flows. EFRAG believes that this constraint will imply unnecessary cost.

With regards to the one-year deferral proposed by the IASB, EFRAG disagrees with 1 January 2022 as the effective date and considers that 1 January 2023 is a realistic effective date, with early application permitted.

Insurance Europe and CFO Forum sent a co-signed comment letter on the IASB ED stressing the need for an annual cohort requirement removal at least for those contracts falling within the Variable Fee Approach (VFA) and for all those contracts at transition date. Concerning the issue of timing, emphasis was given to the fact that many in the industry deem that a further delay to the first application date of the standard is necessary, therefore claiming a further one-year delay (entry into effect of the standard 1st January 2023). The same key messages have been shared with EFRAG in reply to its consultation on Draft comment Letter to IASB.

<u>Our position</u>

ANIA believes that IFRS 17 is inapplicable in its current wording. Therefore, it is fundamental that the standard be modified so as to tackle and solve the critical issues raised.

It is essential to remove the requirement of annual cohorts and provide for at least a further one-year delay of the entry into force of the standard compared to what established by IASB in its ED.

Consequently, ANIA deems as necessary that IASB modify IFRS 17 and provide for a full *Field Test* for the insurance sector.

Next steps

The IASB is about to start the Redeliberation phase, following the public consultation. In the Board meeting of November, the Staff of the IASB proposed a "Redeliberation Plan" for IFRS 17. Among the points that the Staff supported to be included in the "Redeliberation" process as worthy of further considerations there are both the “annual cohort” and the “timing” issues. The Board confirmed the “Redeliberation plan”, which foresees that the IASB's discussions on these points will continue at least until February 2020. The publication of the standard by IASB is expected for the end of the first half of 2020. Once the standard is published, the endorsement process will start at EU level and will primarily involve EFRAG, that will provide advice to the EU Commission on the endorsement of the standard.

Subsequently, the Commission will prepare a draft endorsement regulation that will be voted by majority by ARC (Accounting Regulatory Committee chaired by the EU Commission and made up of representatives of the EU Countries).

Finally, the European Parliament and the Eu Council will have three months’ time to object the adoption of the standard. In case of non-objection, the Commission will adopt the endorsement regulation and will publish it in the O.J.E.U..

11. AIFMD Review

Subject

AIFM Directive represents the most relevant piece of legislation for private capital managers, having set a system of rules with the aim of defining a harmonized and homogeneous framework for the marketing and managing of alternative funds in Europe.

The Directive obliges the European Commission to start a review process since 2017. In October 2017 the Commission has launched, with the support of KPMG, a survey to create the basis for the review. The results have been presented on January 2019. A similar approach has been adopted by Invest Europe.

Relevant aspects

AIFI has monitored the implementation of the Directive within the national context by dealing with both the relevant authorities and the funds with the aim of defining a transposition coherent with the objectives set by the European legislators but also not excessively burdensome for managers.

Our position

In this framework, AIFI is carrying on a recognition, involving its members, in order to underline some elements considered as problematic by Italian managers and that, within the European context, could be taken into account when the review process will begin.

In particular, there is need to intervene on the following issues:

- improving the passport regime introduced by the Directive by limiting ‘fees and charges’ imposed by several national authorities in relation to the marketing of funds. These charges may undermine the original scope of the passport making difficult for managers to operate in a European regime that, in theory, should result coherent and homogeneous in all Member States;
- creating, in continuity with the provisions set out by MIFID II, a tailor-made regime for private capital funds, avoiding a ‘one-size-fits-all’ approach that, in relation to specific obligations, results in administrative and economic costs not always coherent with the

activities performed;

- introducing a semi-professional category of investors able to invest in alternatives starting from a minimum of 200.000 Euro (as provided for in Germany) or 100.000 Euro (for ex., in France) in order to allow also to high ranked private investors, with all the necessary skills and expertise, to contribute to a higher flow of capital towards Italian SMEs.

Next steps

The AIFMD review is not among the top priorities of the next European Commission. However, a report regarding the development of the review process should be sent to the European Parliament and the Council by the first half of 2020.

12. Fiduciary companies from a European perspective

Subject

Italy is the only Member State that has established several years ago fiduciary companies, i.e. companies acting as an enterprise that manages third-party assets acting as an authorized entity subject to the supervision of the Ministry of Economic Development. Other Member States, that have the same Roman civil law tradition such as Luxembourg or France, have in their own domestic regulation the discipline of the fiduciary contract. The activities of the fiduciary companies are regulated by Law No. 1966 of 23 November 1939, Article 1, paragraph 1, as well as by the Italian Ministerial Decree of 16 January 1995. In compliance with anti-money laundering and counter-terrorism financing provisions, fiduciary companies are considered as financial intermediaries pursuant to the provisions of Legislative Decree 231/2007.

Legislative Decree 141/2010 made provision for fiduciary companies controlled by banks, financial intermediaries or fiduciary companies with its paid-in capital not being lower than twice the amount set out in Article 2327 of the Civil code, to be registered in a separate section of the Register provided for in Article 106 of the Consolidated Banking Act (TUB) and to be subject to the Bank of Italy's anti-money laundering supervision.

These developments in the regulatory framework have, consequently, brought fiduciary companies once more within the scope of supervised financial intermediaries, without leading to the distortion of their vocation as an entity authorized to manage third-party assets using a fiduciary contract, while increasingly reaffirming and standardizing their position. Fiduciary companies are, therefore, the sole financial intermediaries under Italian legislation able to administrate assets on a third party account as fiduciary operations while also handling intergenerational transitions, and are able to use the fiduciary contract in order to meet the needs of assets protection using legal solutions different from the traditional rights over collaterals. Finally, they have the power to set up entrusting fiduciary contracts with the purpose of managing special funds consisting of assets subject to destination restrictions or for other purposes worthy of protection, considering that they are the only subjects in Italy capable, for structure and functions, to guarantee the necessary transparency desired by the Community legislator in the field of anti-money laundering for trusts and other types of legal arrangements.

Relevant aspects

The European recognition of this subject would strongly contribute to affirming the aforementioned role of fiduciary companies as authorized entities, acting as an enterprise, to carry out the activity of trust administration of assets for third parties, both in the form of the “Romanistic” trust and also in the form of "Germanistic" trust (comparable to the nominee), as well as independent and separate assets subject to restrictions worthy of protection, as recently provided by Law No. 112/2016 (the so-called "After us" law).

If such an entity were to be recognized, the following may occur at a European level:

- the socio-economic function of an entity institutionally appointed to manage a third-party fiduciary contract provided for by the legislation would be recognized, thus duly serving as guarantee for third-party rights;
- the principle of separation of the clients’ assets from the fiduciary company’s assets would, consequently, be adopted at legislative level; it would allow the development of a common framework for fiduciary contracts;
- it would be of value that the entities managing third-party assets are required to comply with all obligations under the anti-money laundering legislation; those entities are also able to perform tasks serving fiscal interests as both a tax withholder and as a tax agent.

Our position

It would be beneficial if the EU law provide for the harmonization of trust activities acting as an enterprise recognizing the role of fiduciary companies as authorized entities, entrusted with the trust management of assets on behalf of third parties.

This would replicate in Europe, the experience gained about anti-money laundering measures, but not limited to it, by providing, within the European Community, a homogeneous regulation of other types of legal arrangements related to the trust which is, in Italy, the fiduciary contract.