

## Inherited relationships and the next generation

*Dr Alexander Ressos, TEP  
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),  
Solicitor (England & Wales)*

The exemption raises particular questions for the type of client that dominates Lugano's books. Many Italian relationships are decades old. They were opened at a time when the question of initiative was not documented, by a relationship manager who has since retired, for a client whose children now hold the assets. The legacy of the voluntary disclosure programme adds a further layer, because many accounts were regularized in 2015 and 2016 and continued as declared accounts (Chapter E.II). The documentation of initiative is weakest in exactly these relationships. For a relationship opened before the rules took effect, a bank cannot reconstruct an initiative that was never recorded. It can only ensure that its conduct since then has not amounted to solicitation in Italy.

Succession creates a second difficulty. When an Italian client dies and his heirs, resident in Italy, inherit the account, the bank's relationship with them begins anew. The heirs have not approached the bank on their own initiative in any ordinary sense, since the bank is part of what they inherited. Whether the continuation of the relationship at their request counts as an exclusive initiative, and whether the bank may then offer them portfolio management in place of their father's advisory mandate, are questions that no Italian court has decided. A prudent bank treats the heirs' request as an initiative, documents it and limits the services to what they ask for. It does not present new products to them in Italy. Chapter E.V describes the succession planning that often precedes such transfers.

### 1 Marketing, events and the internet

The prohibition of solicitation reaches every channel of marketing. Article 166 paragraph 1 TUF penalizes, besides the unauthorized provision of investment services, the offer in Italy of units of collective investment undertakings and the offer outside the premises (*offerta fuori sede*) or the promotion and placement by means of distance communication of

financial instruments, products or services without authorization.<sup>1</sup> A Swiss bank that sends a newsletter on its funds to Italian addresses, invites Italian prospects to a dinner in Milan, sponsors a conference in Como with a presentation of its mandates or advertises on Italian websites risks crossing this line, whether or not any contract is ultimately concluded.

The offer outside the premises is a regulated activity in Italy. Under Articles 30 and 31 TUF it may be carried out only by authorized intermediaries through financial advisers authorized to offer outside the premises (*consulenti finanziari abilitati all'offerta fuori sede*), who must be entered in the register kept by the supervisory body of financial advisers (OCF). The effectiveness of placement contracts concluded outside the premises is suspended for seven days from the investor's signature, during which the investor may withdraw without charge.<sup>2</sup> Article 166 paragraph 2 TUF extends the criminal penalty to anyone who acts as such an adviser without being entered in the register.<sup>3</sup> For the relationship manager from Lugano who meets clients in their homes or offices in Italy, this rule turns a professional visit into the conduct that the Italian legislator penalizes most directly. CONSOB uses an administrative tool to enforce the rules on the internet. Since the Growth Decree (*Decreto Crescita*) of 2019 conferred the power on it, CONSOB may order internet service providers to block access to websites through which unauthorized investment services are offered to Italian residents. By 24 September 2026 CONSOB had blocked 1,829 websites in this way since July 2019, 235 of them concerned with Kryptowerte und Digital Assets.<sup>4</sup> The targets are almost always fraudulent platforms. The legal basis is nevertheless the same for a regulated Swiss bank. A Swiss bank's website addressed to Italian clients, in Italian, with an invitation to open an account, would be an unauthorized offer under Italian law.

## 2 Notes

1. TUF, Art. 166 para. 1 (above). ↩
2. TUF, Art. 30 (definition of the offer outside the premises; para. 6: effectiveness of placement contracts suspended for seven days from the investor's signature, during which the investor may withdraw without charge), <https://www.brocardi.it/testo-unico-intermediazione-finanziaria/parte-ii/titolo-ii/capo-iv/art30.html>, and Art. 31 (intermediaries acting through financial advisers authorized to offer outside the premises; para. 4: single register of financial advisers kept by the Organismo di vigilanza e tenuta dell'albo unico dei consulenti

finanziari, OCF), <https://www.brocardi.it/testo-unico-intermediazione-finanziaria/parte-ii/titolo-ii/capo-iv/art31.html>. ↩

3. TUF, Art. 166 para. 2 (above). ↩
4. Teleborsa, 24 September 2026 (above), which attributes the blocking power to the Growth Decree (Decreto Crescita) and gives 1,829 sites since July 2019, 235 of them concerned with Kryptowerte und Digital Assets. Art. 7-octies TUF itself confers the powers to make public that a provider is not authorized and to order it to end the breach (Brocardi.it, above). ↩

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