EU Retail Investment Strategy (“MiFID III”)

International Structured Products Forum 2023, Lucerne, 6 September 2023

Dr Henning Bergmann

Agenda

I. EU Retail Investment Strategy (“MiFID III”) – Overview and Assessment

II. Individual Aspects of the European Commission’s Proposal of 24 May 2023

III. Outlook: further Proceedings

III. Excursus: MiFIR | Payment for Order Flow | Other Topics

Overview

- Legislative proposals of the European Commission published on **24 May 2023** | Consultations in the Council and Parliament have begun
- Objectives of the European Commission:
  - increase **long-term investment by retail investors in capital markets**
  - holistic investor-centric approach
  - **harmonisation**
- Regulatory domain:
  - the Markets in Financial Instruments Directive (MiFID)
  - the Insurance Distribution Directive (IDD)
  - the Regulation on Key Information Documents (KID) – PRIIPs in a separate legislative act

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Assessment

- In view of the European Commission's previous statements:

  "It could have been significantly worse." However: will the objective of facilitating retail investors' access to capital markets be achieved?

- On the positive side:

  1. **No ban on inducements** in investment advice; but under review
  2. **No "compulsory advice" in the non-advised business segment**
  3. In principle, **no discrimination against structured products (but Level II remains in question)**
  4. **A level playing field** – IDD and MiFID harmonised

Assessment

- On the negative side:
    - **a ban on inducements** in the non-advised business segment
    - Check of the **"capacity to bear losses"** in the non-advised business segment
- Many detailed provisions:
    - **value for money** with benchmarks – design open
    - **"best interest test"**
    - **risk warnings,** etc.
- **The devil is in the details: Level II (and ESMA)** will largely determine how the regulations will work in practice
- The **implementation period** of 18 months after publication is too short

Agenda

1. Ban on inducements – topic under discussion since 2007

- Managing the **conflict of interest?**
- With MiFID I, there has been a fundamental ban on accepting inducements **since 2007** (exception: quality improvement and disclosure)
- Debate on ban in **MiFID II consultations** (especially in the ECON Committee of the European Parliament) and at Level II (initially very far-reaching ESMA proposals)
- Result: **Sharpening of the requirements with MiFID II since 2018** with tougher criteria
- **Divergences** between MiFID and IDD

§ 70 WpHG (Auszug)

(1) Ein Wertpapierdienstleistungsunternehmen darf im Zusammenhang mit der Erbringung von Wertpapierdienstleistungen oder Wertpapiernebendienstleistungen keine Zuwendungen von Dritten annehmen oder an Dritte gewähren, die nicht Kunden dieser Dienstleistung sind oder nicht im Auftrag des Kunden tätig werden, es sei denn,
1. die Zuwendung ist darauf ausgelegt, die **Qualität der für den Kunden erbrachten Dienstleistung zu verbessern** und steht der ordnungsgemäßen Erbringung der Dienstleistung im bestmöglichen Interesse des Kunden im Sinne des § 63 Absatz 1 nicht entgegen und
2. Existenz, Art und Umfang der Zuwendung oder, soweit sich der Umfang noch nicht bestimmen lässt, die Art und Weise seiner Berechnung, wird dem Kunden vor der Erbringung der Wertpapierdienstleistung oder Wertpapiernebendienstleistung in umfassender, zutreffender und verständlicher Weise **unmissverständlich offen** gelegt.
Wertpapierdienstleistungsunternehmen müssen **nachweisen** können, dass jegliche von ihnen erhaltenen oder gewährten Zuwendungen dazu bestimmt sind, die Qualität der jeweiligen Dienstleistung für den Kunden zu verbessern.

§ 48a VAG (Auszug)

(6) Versicherungsunternehmen, die eine Gebühr oder Provision zahlen oder eine Gebühr oder Provision erhalten oder einer Partei einen nichtmonetären Vorteil im Zusammenhang mit dem Vertrieb eines Versicherungsanlageprodukts oder einer Nebendienstleistung gewähren oder einen solchen von einer Partei erhalten, sofern es sich bei dieser Partei nicht um einen Kunden oder eine Person handelt, die im Auftrag des Kunden tätig wird, müssen dafür Sorge tragen, dass die **Gebühr oder Provision oder der Vorteil sich nicht nachteilig auf die Qualität der entsprechenden Dienstleistung für den Kunden auswirkt** und nicht die Verpflichtung des Versicherungsunternehmens beeinträchtigt, im besten Interesse seiner Kunden ehrlich, redlich und professionell zu handeln.

Inducements

Early 2023: Changed position in the European Commission

- Responsible Commissioner **Mairead McGuinness** initially expressed caution and did not rule out a ban, but emphasised transparency
- Expected in **late summer 2022**: the "ban" is off the table | But then critical signals and the letter of 21 December 2022: "However, maintaining the inducement-based system may not deliver the best outcome, especially in the case of small-scale investors. **As already indicated, under an inducement-based system, retail investors will often not be advised on the best products.** I believe that also under a fee-based distribution system without inducements, advice should and will generally be available for small scale investors, for a fee that is affordable to retail investors."

EUROPEAN COMMISSION

Commissioner Mairead McGuinness
Financial Services, Financial Stability and Capital Markets Union

Brussels, 21 December 2022
Ares (2022)7355793

Dear Mr. Ferber,

Thank you for your letter, in which you expressed your concerns about the introduction of a potential ban on inducements, in the framework of the retail investment strategy.

As you know, my services have gathered a considerable amount of evidence (including from the extensive public consultation, a targeted consultation on the suitability assessment, the comprehensive study on retail investments conducted by an external contractor, as well as the three calls for advice to the ESAs) on a wide range of topics. We are currently assessing this evidence and analysing the impact of the different policy options.

Our evidence indicates that, despite its original intention, MiFID II has not led to a shift towards independent advice and that inducements-based distribution remains the principal model for the sale of retail investment products. Our evidence also indicates that under the inducement-based model, retail investors will often be sold products which are more costly than other cheaper alternatives available on the market. The comprehensive retail investment study has found that products on which inducements are paid are - on average - about 35% more expensive than investment products on which no inducements are paid. Furthermore, an ESMA study found that the cost of a 10-year investment of EUR 10 000 would have been more than 35% more expensive for a consumer than for an industry actor, for the same product. The MiFID II changes have therefore not yet resulted in a market where consumers receive better value for money. By contrast, in the Netherlands and the UK, which introduced a ban on inducements, product costs have fallen, with the result that clients in both countries have better value for money when purchasing investment products. While there has been a shift from advised services to execution-only services and portfolio management, the inducement ban has not generally led to a reduction in retail investing. The wide-ranging behavioural testing of the effects of inducement related information on investment decision of consumers conducted in the context of the retail investment study also provided evidence that transparency about the existence of inducements simply does not work: many consumers do

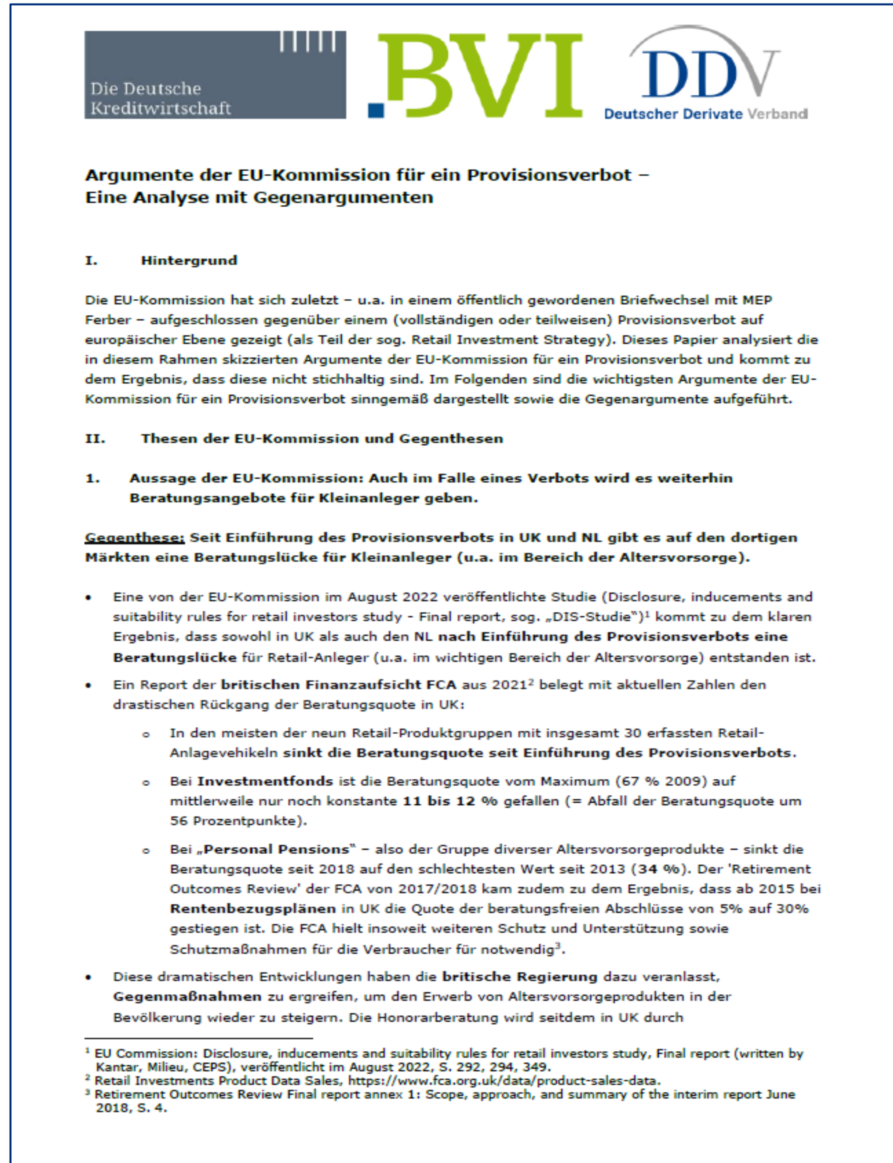
Mr Markus Ferber
Member of the European Parliament (MEP)
Parlement européen
Bât. ALTIERO SPINELLI 14E162
60, rue Wiertz / Wiertzstraat 60
B-1047 Bruxelles/Brussel
Email: markus.ferber@europarl.europa.eu

Rue de la Loi 200, B-1049 Brussels - Tel. +32-2 29.53200 - Mairead.MCGUINNESS@ec.europa.eu

Inducements

Opposition from the Council

- Intensive activities by **advocacy groups**
- **Minister of Finance Christian Lindner and Member of Parliament Markus Ferber** vehemently oppose the ban on inducements
- Other countries (Austria, France) follow suit
- March 2023: a majority emerges in the **Council** against the ban on inducements
- European **Parliament**: no majority for a proposal of a ban in the MiFIR procedure, but clear positioning S&D



Die Deutsche Kreditwirtschaft

Argumente der EU-Kommission für ein Provisionsverbot – Eine Analyse mit Gegenargumenten

I. Hintergrund

Die EU-Kommission hat sich zuletzt – u.a. in einem öffentlich gewordenen Briefwechsel mit MEP Ferber – aufgeschlossen gegenüber einem (vollständigen oder teilweisen) Provisionsverbot auf europäischer Ebene gezeigt (als Teil der sog. Retail Investment Strategy). Dieses Papier analysiert die in diesem Rahmen skizzierten Argumente der EU-Kommission für ein Provisionsverbot und kommt zu dem Ergebnis, dass diese nicht stichhaltig sind. Im Folgenden sind die wichtigsten Argumente der EU-Kommission für ein Provisionsverbot sinngemäß dargestellt sowie die Gegenargumente aufgeführt.

II. Thesen der EU-Kommission und Gegenthesen

1. Aussage der EU-Kommission: Auch im Falle eines Verbots wird es weiterhin Beratungsangebote für Kleinanleger geben.

Gegenthese: Seit Einführung des Provisionsverbots in UK und NL gibt es auf den dortigen Märkten eine Beratungslücke für Kleinanleger (u.a. im Bereich der Altersvorsorge).

- Eine von der EU-Kommission im August 2022 veröffentlichte Studie (Disclosure, inducements and suitability rules for retail investors study - Final report, sog. „DIS-Studie")[1] kommt zu dem klaren Ergebnis, dass sowohl in UK als auch den NL **nach Einführung des Provisionsverbots eine Beratungslücke** für Retail-Anleger (u.a. im wichtigen Bereich der Altersvorsorge) entstanden ist.
- Ein Report der **britischen Finanzaufsicht FCA** aus 2021[2] belegt mit aktuellen Zahlen den drastischen Rückgang der Beratungsquote in UK:
  - In den meisten der neun Retail-Produktgruppen mit insgesamt 30 erfassten Retail-Anlagevehikeln **sinkt die Beratungsquote seit Einführung des Provisionsverbots.**
  - Bei **Investmentfonds** ist die Beratungsquote vom Maximum (67 % 2009) auf mittlerweile nur noch konstante **11 bis 12 %** gefallen (= Abfall der Beratungsquote um 56 Prozentpunkte).
  - Bei „**Personal Pensions**" – also der Gruppe diverser Altersvorsorgeprodukte – sinkt die Beratungsquote seit 2018 auf den schlechtesten Wert seit 2013 (**34 %**). Der 'Retirement Outcomes Review' der FCA von 2017/2018 kam zudem zu dem Ergebnis, dass ab 2015 bei **Rentenbezugsplänen** in UK die Quote der beratungsfreien Abschlüsse von 5% auf 30% gestiegen ist. Die FCA hielt insoweit weiteren Schutz und Unterstützung sowie Schutzmaßnahmen für die Verbraucher für notwendig[3].
- Diese dramatischen Entwicklungen haben die **britische Regierung** dazu veranlasst, **Gegenmaßnahmen** zu ergreifen, um den Erwerb von Altersvorsorgeprodukten in der Bevölkerung wieder zu steigern. Die Honorarberatung wird seitdem in UK durch

[1] EU Commission: Disclosure, inducements and suitability rules for retail investors study, Final report (written by Kantar, Milieu, CEPS), veröffentlicht im August 2022, S. 292, 294, 349.
[2] Retail Investments Product Data Sales, https://www.fca.org.uk/data/product-sales-data.
[3] Retirement Outcomes Review Final report annex 1: Scope, approach, and summary of the interim report June 2018, S. 4.

Inducements

No ban in the advised business

- European Commission proposal of May 2023 does **not provide for a ban on inducements in the advised business segment** – but does for the **non-advised business segment** – in both MiFID and IDD
- Transactions **made that are connected to investment advice** may not be impacted by the ban – but the scope is not entirely clear
- Exemption for **payments by issuers**, but not likely to be used for PRIIPs products, and is thus very limited in scope
- **Ban in the non-advised business segment broadly formulated** – does not refer just to "execution-only"
- Political compromise; also meets the demands of investor protection advocates

'*Article 24a*

Inducements

1. Member States shall ensure that investment firms, when providing portfolio management, do not pay or receive any fee or commission, or provide or are provided with any non-monetary benefit, in connection with the provision of such service, to or by any party except the client or a person on behalf of the client.
2. Member States shall ensure that investment firms, when providing reception and transmission of orders or execution of orders to or on behalf of retail clients, do not pay or receive any fee or commission, or provide or are provided with any non-monetary benefit in connection with the provision of such services, to or from any third-party responsible for the creation, development, issuance or design of any financial instrument on which the firm provides such execution or reception and transmission services, or any person acting on behalf of that third-party.
3. Paragraph 2 shall not apply to investment firms, when providing investment advice on a non-independent basis relating to one or more transactions of that client covered by that advice.
4. Paragraph 2 shall not apply to fees or any other remuneration received from or paid to an issuer by an investment firm performing for that issuer one of the services referred to in Annex I, Section A, points 6 and 7, where the investment firm also provides to retail clients any of the investment services referred to in paragraph 2 and relating to the financial instruments subject to the placing or underwriting services.

   This paragraph shall not apply to financial instruments that are packaged retail investment products as referred to Article 4, point (1), of Regulation (EU) No 1286/2014.
5. Paragraphs 1 and 2 shall not apply to the minor non-monetary benefits of a total value below EUR 100 per annum or of a scale and nature such that they could not be judged to impair compliance with the investment firm's duty to act in the best interest of the client, provided that they have been clearly disclosed to the client.

Inducements

Requirements

- Instead of the **quality enhancement test** a "**best interest test"** is envisaged with the following criteria:
  - (1) Offering an appropriate range of financial products
  - (2) Recommending the most cost-efficient products
  - (3) Offering at least one product without additional features

  → not easy to implement in practice
- The **portfolio** must be taken into account when providing investment advice
- Facilitation of **fee-based advice** for certain ("simple") products

(12) Article 24 is amended as follows:

(a) paragraph 1 is replaced by the following :

'1. Member States shall require that, when providing investment services or, where appropriate, ancillary services to clients, an investment firm act honestly, fairly and professionally in accordance with the best interests of its clients and comply, in particular, with the principles set out in this Article and Articles 24a to Article 25.';

(b) the following paragraph 1a is inserted:

'1a. Member States shall ensure that, in order to act in the best interest of the client, when providing investment advice to retail clients, investment firms are under the obligation of the following:

(a) to provide advice on the basis of an assessment of an appropriate range of financial instruments;

(b) to recommend the most cost-efficient financial instruments among financial instruments identified as suitable to the client pursuant to Article 25(2) and offering similar features;

(c) to recommend, among the range of financial instruments identified as suitable to the client pursuant to Article 25(2), a product or products without additional features that are not necessary to the achievement of the client's investment objectives and that give rise to extra costs.';

(c) in paragraph 2, the first subparagraph is replaced by the following:

'Member States shall ensure that investment firms which manufacture financial instruments for sale to clients:

(a) design those financial instruments to meet the needs of an identified target market of end clients within the relevant category of clients;

(b) design their strategy for the distribution of the financial instruments, including in terms of marketing communication and marketing practices, in a way that is compatible with the identified target market;

(c) take reasonable steps to ensure that the financial instruments are distributed to the identified target market.';

(d) paragraph 3 is replaced by the following:

'All information, addressed by the investment firm to clients or potential clients shall be fair, clear and not misleading.';

Inducements

Requirements

- **Presentation** of inducements is to be standardised
- The European Commission is to review the situation **three years after the implementation** of the Directive, with a comprehensive ban remaining an option on the table (recommended in the impact assessment)
- **Ban in the non-advised business segment broadly formulated** – does not refer just to “execution-only”
- Political compromise; also meets the demands of investor protection advocates
- DDV proposal: ban on pure “execution-only”; otherwise a “**value added test”** in the non-advised business segment (information, tools, discounts)

‘*Article 24a*

Inducements

1. Member States shall ensure that investment firms, when providing portfolio management, do not pay or receive any fee or commission, or provide or are provided with any non-monetary benefit, in connection with the provision of such service, to or by any party except the client or a person on behalf of the client.
2. Member States shall ensure that investment firms, when providing reception and transmission of orders or execution of orders to or on behalf of retail clients, do not pay or receive any fee or commission, or provide or are provided with any non-monetary benefit in connection with the provision of such services, to or from any third-party responsible for the creation, development, issuance or design of any financial instrument on which the firm provides such execution or reception and transmission services, or any person acting on behalf of that third-party.
3. Paragraph 2 shall not apply to investment firms, when providing investment advice on a non-independent basis relating to one or more transactions of that client covered by that advice.
4. Paragraph 2 shall not apply to fees or any other remuneration received from or paid to an issuer by an investment firm performing for that issuer one of the services referred to in Annex I, Section A, points 6 and 7, where the investment firm also provides to retail clients any of the investment services referred to in paragraph 2 and relating to the financial instruments subject to the placing or underwriting services.

   This paragraph shall not apply to financial instruments that are packaged retail investment products as referred to Article 4, point (1), of Regulation (EU) No 1286/2014.
5. Paragraphs 1 and 2 shall not apply to the minor non-monetary benefits of a total value below EUR 100 per annum or of a scale and nature such that they could not be judged to impair compliance with the investment firm’s duty to act in the best interest of the client, provided that they have been clearly disclosed to the client.

Outlook

- The European Commission is to review the situation **three years after the implementation** of the Directive, with a comprehensive ban remaining an option on the table (recommended in the impact assessment)

McGuinness on 20 June 2023:

“Full ban still on the table”

2. Non-advised business / suitability and appropriateness assessments

- Fortunately, the introduction of **"compulsory advice"** for all products has been dispensed with → a significant improvement on the European Commission's previous plans
- However, the suitability and appropriateness assessments are to be expanded – clients' **risk tolerance** (which, based on discussions to date, is probably presentable) and their **capacity to bear losses** are to be queried and reviewed

EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

Financial markets
Securities markets

CONSULTATION DOCUMENT

TARGETED CONSULTATION ON OPTIONS TO ENHANCE THE SUITABILITY AND APPROPRIATENESS ASSESSMENTS

Disclaimer

This document is a working document of the Commission services for consultation and does not prejudge the final decision that the Commission may take.

The views reflected on this consultation paper provide an indication on the approach the Commission services may take but do not constitute a final policy position or a formal proposal by the European Commission.

The responses to this consultation paper will provide important guidance to the Commission when preparing, if considered appropriate, a formal Commission proposal.

Commission européenne/Europese Commissie, 1049 Bruxelles/Brussel, BELGIQUE/BELGIË - Tel. +32 22991111
https://ec.europa.eu/info/business-economy-euro_en

2. Non-advised business / suitability and appropriateness assessments

- Additional information and warnings are also provided
- It is important that clients can continue to purchase their desired financial instruments even if they have been **warned** about them
- The process of **collecting client data** is to be strengthened to enable easier exchange

2 | 2023

DDV Position Paper

DDV position paper on the importance of preserving non-advised business in the context of the adjustments proposed by the EC on suitability/appropriateness

Why is it so crucial to preserve the non-advised business?

- A large number of experienced investors in Germany want to invest by themselves without being subject to any "compulsory investment advice". These investors do not want that the bank tells them what to do, restricts their decision or puts additional hurdles on the trading. For the time being, no consumer protection reason grounded on empirical evidence justifies that these investors are deprived of their freedom, considering in particular the existing solid protections afforded by the MiFID II regulatory framework.
- For these self-directed investors it is essential to have access to the full range of products, including leverage products that they trade in full awareness as illustrated by the academic study performed in December 2019 by Prof. Meyer and Prof. Johanning based on a broad data sample of investors.
- Most of these non-advised services are offered by direct banks, also called online brokers, with an easy and low cost access for retail investors to capital markets.

CONTACT

Contact: Dr. Henning Bergmann
E-Mail: bergmann@derivateverband.de
Phone: +49 30 4000 475 50

Berlin Office | Pariser Platz 3 | 10117 Berlin
Frankfurt Office | Feldbergstraße 38 | 60323 Frankfurt a. M.

Deutscher Derivate Verband (DDV), the German Derivatives Association, is the industry representative body for the leading issuers of structured securities in Germany. Members are BNP Paribas, Citigroup, DekaBank, Deutsche Bank, DZ BANK, Goldman Sachs, HSBC Trinkaus, HypoVereinsbank, J.P. Morgan, LBBW, Morgan Stanley, Société Générale, UBS and Vontobel. Furthermore, the Association's work is supported by more than 20 sponsoring members, which include the stock exchanges in Stuttgart, Frankfurt, and gettex, which belongs to the Bavarian Stock Exchange in Munich, Baader Bank, and the direct banks comdirect bank, Consorsbank, DKB, flatexDEGIRO, ING-DiBa, maxblue, S Broker, Smartbroker and Trade Republic, as well as the finance portals finanzen.net and onvista, and other service providers. Based in Berlin, Frankfurt and Brussels, the DDV has the mandate to elaborate self-regulatory standards such as the Fairness Code which is observed by the issuers with respect to the structuring, issuing, marketing and trading of structured securities. Transparency and education of retail investors is at the heart of its mission.

For more information, please consult www.derivateverband.de.

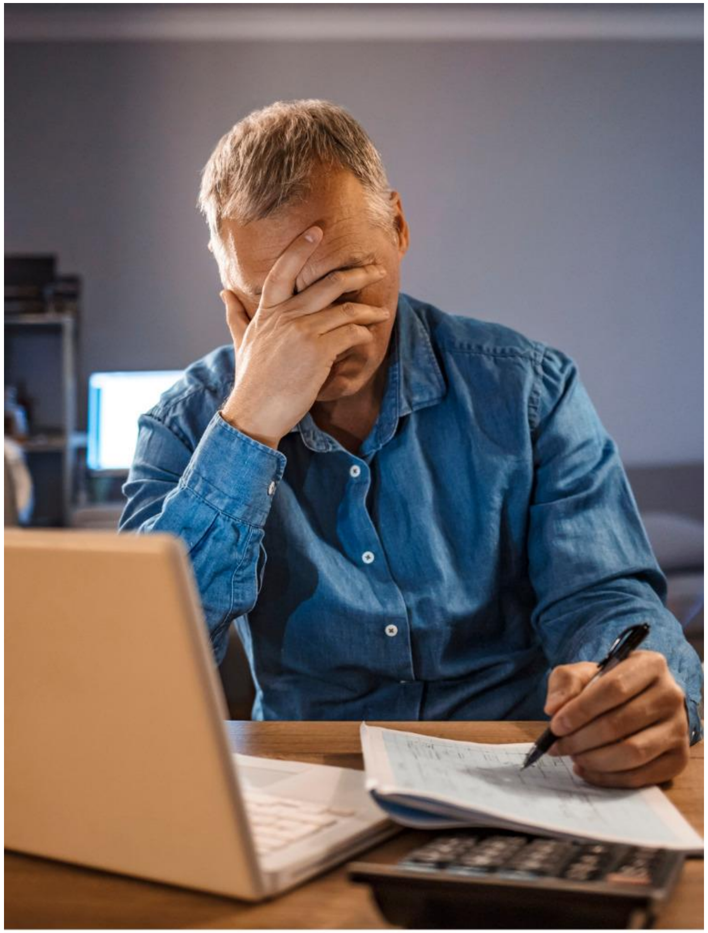
Identification number in the EU Transparency Register: 377055313623-72

3. Investor categorisation

- No proposals for new categories in addition to **retail clients, professional clients, and eligible counterparties**
- The draft provides for eased criteria for the **classification of professional clients**:

  Liquid assets only have to amount to EUR 250,000 (instead of EUR 500,000), the criterion linked to the profession is clarified and additional proof through education and training is included as a criterion in the catalogue

- This should make it easier for retail clients to be upgraded to professional clients, which is a positive development | However, its applicability in practice remains open
- Opens up potential **scope for banks**



DDV Deutscher Derivate Verband

4. Value for money / product governance

- Value for money is to be included as a criterion | It is positive that this will be integrated into **product governance (with target market specification)**, and this also corresponds with the DDV's proposals**.** This will, however, be restructured at Level I
- This applies to **issuers** and **distributors** (option to provide it for issuers was considered but not pursued)
- **"Price process"** is to be introduced, which also provide for a comparison with benchmarks provided by ESMA. **Recording obligations** will also be introduced| Details to be worked out by the ESAs / ESMA

'Article 16-a

Product governance requirements

1. Member States shall ensure that investment firms which manufacture financial instruments for sale to clients establish, maintain, operate and review a process for the approval of each financial instrument and significant adaptations of existing financial instruments before it is marketed or distributed to clients (the product approval process).

   The product approval process shall contain all of the following:

   (a) a specification of an identified target market of end-clients within the relevant category of clients for each financial instrument;

   (b) a clear identification of the target market's objectives and needs;

   (c) an assessment of whether the financial instrument is designed appropriately to meet the target market's objectives and needs;

   (d) an assessment of all relevant risks to the identified target market and that the intended distribution strategy is consistent with the identified target market;

   (e) in relation to financial instruments falling under the definition of packaged retail investment products in accordance with Article 4(1) of Regulation (EU) No 1286/2014 of the European Parliament and of the Council*, a clear identification and quantification of all costs and charges related to the financial instrument and an assessment of whether those costs and charges are justified and proportionate, having regard to the characteristics, objectives and, if relevant, strategy of the financial instrument, and its performance ('pricing process').

   The pricing process referred to in point (e) shall include a comparison with the relevant benchmark, where available, on costs and performance published by ESMA in accordance with paragraph 9.

   When a financial instrument deviates from the relevant benchmark referred to in paragraph 9, the investment firm shall perform additional testing and further assessments and establish whether costs and charges are nevertheless justified and proportionate. If justification and

4. Value for money / product governance

- New reporting obligations for PRIIPs products are to be introduced, according to which the costs and fees as well as the characteristics of the product have to be reported to the (national) supervisory authorities, which will pass these on to ESMA | New reporting channel will require effort from businesses, but probably parallel to existing channels
- Massive amount of data for the supervisory authorities / Relationship to the European Single Access Point (ESAP)?
- Negative points: Very extensive **delegation** to ESMA & the European Commission | Definition of **benchmarks**? | **Price regulation**? | Level I should indicate limits where necessary

ibox – ESMA ©

5. Warnings for particularly risky products

- Supervisory authorities are to be given the power to require **warnings** in all information materials for particularly risky products (the concept is to be defined by ESMA and EIOPA)
- In principle, we do not regard this critically, but its impact will largely depend on the **actual design** (it must not have a deterring effect)
- The link to risk rather than to complexity should be regarded positively
- Comparison with the “comprehension alert” (which is to be abolished) in the PRIIPs KID – this had no practical impact (non-event)

6. Cost transparency

- Cost transparency is to be simplified (i.e., comprehensible to the average retail client) and more consistent (both in content and format) through **technical standards set by the supervisory authorities**
- An **annual statement** is to be prepared (including all costs, associated charges, and payments to third parties) to provide clients with a better understanding of the impact on their portfolio's **performance**

7. Marketing communications requirements

- A **“marketing policy”** – is to be established, approved by the management body / board
- **Third-party communications** are to be captured if paid or otherwise supported – relevant also for social media / finfluencers
- Responsibilities between the **distributor and the issuer** are to be clarified

8. Additional supervisory powers for digital channels and cross-border activities

- Supervisory authorities are to be given **additional powers** to take action against untrustworthy parties who do not possess the relevant authorisations
- In addition, **mystery shopping** is to take place (already introduced in Germany with the FISG)
- Furthermore, reporting obligations on **cross-border activities** are to be introduced, which will only be permissible if services are also offered in the “home” member state
- An **exchange platform** is also to be established for supervisors

9. Stipulation of requirements for the qualification of investment advisors

- **Minimum standards** for investment advisors with respect to experience and competencies | Training (at least 15 hours per year)
- Based on first impressions, these requirements do not extend beyond the existing requirements / practices in Germany, which have been in place since the introduction of the **advisor register** (**Beraterregister)**
- National scope is likely to be preserved

10. Additional aspects

- **Electronic form** to be established as standard
- **Financial education** is to be promoted by member states

11. Implementation period

- Currently envisaged: in principle, **18 months** after the publication of **Level I** in the Official Journal of the European Union
- Petition: not until **12 months** after publication of **Level II** (thus a fixed set for implementation – delays at Level II should not be at the expense of the implementation period for businesses)

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III. Further Proceedings


- Hearing in the ECON Committee of the European Parliament on 29 June 2023 | Very heated discussions and differing positions of parties



- First deliberations of the **Council Working Group on 5 July 2023** | Approval of the European Commission's proposal, but also first critical remarks | Complete positioning not yet achieved | Continuation in **September 2023**



- **Spanish Council Presidency** with ambitious timetable to the end of the year (after which Belgium takes over). Questions remain about whether the timetable is realistic

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Ban on Payment for Order Flow

- EU-wide ban agreed in Trilogue on 29 June 2023
- **Phase out**: countries can maintain current practices until **30 June 2026**
- The detail of the wording may still change | Resolution expected in autumn 2023

SCHLUSS MIT GRATIS-SPARPLÄNEN UND 1-EURO-TRADES

EU beschließt Preis-Hammer für Millionen Kleinanleger

Bild STARTSEITE NEWS POLITIK REGIO UNTERHALTUNG SPORT FUSSBALL LIFESTYLE RATGEBER SEX & LIEBE AUTO SPIELE DEALS

Handeln fast zum Nulltarif könnte aufgrund eines EU-Verbots bald Geschichte sein
Foto: Arne Immanuel Bänsch/dpa

https://www.bild.de/geld/wirtschaft/wirtschaft/eu-beschliesst-preis-hammer-fuer-millionen-kleinanleger-84602408.bild.html

Trilogue | Agreement on 29 June 2023

- **EU-wide ban on PFOF**
- **Exception** for certain “rebates und discounts” of trading venues (RM, MTF, OTF)
- **Phase out**: countries can maintain current practices until **30 June 2026 | ESMA list**
- **No final texts** available; details are now being worked out in the technical Trilogue; **results are expected soon**
- **Formal resolution by Council and Parliament** expected in **autumn 2023**
- Germany will most likely make use of the option: **PFOF ban from July 2026 in Germany**

IV. Further Regulations in discussion

DDV Deutscher Derivate Verband

- **PRIIPs-Regulation (together with the Retail Investment Strategy)**
- **Listing Act (Commission Proposal 2 December 2022)**
- **Open Finance Framework (Commission Proposal 28 June 2023)**

Thank you!

Questions?

Dr Henning Bergmann
Geschäftsführender Vorstand / Rechtsanwalt

DDV Berlin Office
Pariser Platz 3
10117 Berlin

Phone: +49 30 4000 475 - 50
Email: bergmann@derivateverband.de