



Retail Investment Strategy

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Summary

AK's position in brief

- AK welcomes the intentions of the EU Retail Investment Strategy, in particular the provisions on the partial ban on inducements in the insurance and securities sector. However, the proposed exemptions from this ban are complicated and therefore allow many loopholes. The IDD (Insurance Distribution Directive) shall now also prohibit inducements for independent advice, but the current restrictive provisions should be deleted so as not to complicate the comprehensibility and not to dilute the ban on inducements.
- AK demands that the inducement provisions in the securities and insurance sectors are harmonised in terms of content and are therefore coherent.
- AK proposes that remuneration (commissions, fees) in financial sales should be fully and automatically disclosed. In addition, commissions should be stated in euro amounts to ensure that the extent of the remuneration is fully communicated.
- AK also proposes that interested consumers be presented with different remuneration options for commission and fee models for insurance investment products. Specifically, it is proposed to make it compulsory to offer consumers, during the pre-contractual consultation, a fee-based remuneration option, a commission-based remuneration option (spread of costs over the entire term) and a remuneration option based on the current legal provisions (spread of costs over five years). This pre-contractual remuneration transparency is intended to make it easier for consumers to make an independent decision when choosing a remuneration scheme.
- AK emphasises the importance of consumer-oriented digitalisation steps in the financial services sector. The rules proposed by the EU Commission for influencers do not go far enough. AK therefore proposes that influencers disclose their status under trade law and any remuneration from third

parties clearly, concisely and conspicuously on social media and on their homepages.

- AK misses a focus on legal enforcement in the event of mis-selling. Experience has shown that many retail investors do not obtain their rights because many private legal expenses insurers have excluded disputes with financial service providers from the scope of cover of their policies.

Basic considerations

AK takes a critical view of the basic intention of the retail investor strategy, because:

- The EU Commission intends to bring security-oriented savers onto the capital market. This must not result in any pressure, in order to ensure that savers do not purchase securities without reflection.
- Retail investors need very good advice and easily understandable information when investing in securities. AK studies regularly show that these conditions are often not met.
- Investment in securities is not suitable for all retail investors.

AK's position

Content of the draft

In May 2023, the EU Commission presented an omnibus directive that would make far-reaching changes to the securities and insurance sectors. This proposed directive is known as the EU Retail Investment Strategy, and a core element concerns the reorganisation of inducements, which are common and widespread in financial sales.

With the Retail Investment Strategy, the EU Commission wants to strengthen confidence in capital markets and promote investments by retail investors in particular.

A key regulatory objective of the EU Commission is to enable retail investors (i.e. individuals) to make investment decisions that meet their needs and preferences and to ensure that they are treated fairly and adequately protected. In this way, the confidence of retail investors is to be strengthened so that they can invest safely in the future. The EU Commission's 2020 Action Plan for the Capital Markets Union envisages making the EU a safe place to invest.

The main provisions of the planned draft

The proposed directive defines three main areas of regulation:

- 1) Information and transparency requirements and marketing communications
- 2) Inducements
- 3) A 'value for money' principle (price-performance ratio)

Information and transparency requirements and marketing communications

The draft aims to improve the way retail investors are provided with information on investment products and services so that they receive more meaningful and standardised information.

The transparency and comparability of costs should be increased through the use of a standardised format and terminology. The present proposal provides that the supervisory authorities ESMA and EIOPA will establish a standardised format and terminology for the disclosure of costs. In this context, it must be ensured that the proposals are not too technical. This is because AK has repeatedly found that standardised pre-contractual information such as KID (Key Information Documents), basic information sheets etc. are not comprehensible to the average consumer. AK therefore calls for costs to be disclosed in a comprehensible form and in euro amounts.

Remuneration and inducements

A core element of the proposal is a partial ban on inducements. The draft directive states that the commission-based sale of financial services cannot be freed from its disincentives and that a ban on inducements is a consumer-oriented measure. The EU Commission explains in the explanatory memorandum that a full ban on inducements was considered and that the impact assessment showed that an EU-wide ban on inducements would in itself be the „most effective measure“ to reduce or remove „potential conflicts of interest“. However, „a full ban on inducements would entail significant and sudden impacts on existing distribution systems, with consequences that are hard to predict“. For this reason, a full ban on inducements is not proposed and a partial ban on inducements is suggested („... a partial ban would ... have less impact on existing distribution systems ... “).

AK welcomes the fact that the provisions in the MiFID and the IDD are treated in the same way. To date, MiFID II has stipulated that no commissions are permitted for advice that is labelled as independent. The present proposal is also intended to prohibit commission for independent insurance broking.

AK also welcomes the intention to introduce stricter rules for the sale of securities and life insurance policies. However, there are a number of ancillary conditions and exceptions to the Commission's proposed ban on inducements that make it difficult to understand:

- Article 29a(1) IDD-D, with reference to Article 30(2) and (3), stipulates that inducements are prohibited for any non-advised sale of insurance-based investment products. However, it is not practicable for this prohibition to be restricted again in the third subparagraph of Article 29a(1) IDD-D. Accordingly, inducements may still be permitted if they enable or are necessary for the provision of distribution services. This third subparagraph of Article 29a(1) of the draft IDD should be deleted in order to rule out the possibility of circumventing the ban on inducements in non-advised sales.
- In the case of independent advice, the IDD will now also prohibit commission, but independent insurance intermediaries will be able to limit their efforts and will not have to offer the otherwise required broad market survey. They can instead limit themselves “to well-diversified, cost-efficient and non-complex financial instruments” when assessing insurance investment products in accordance with Article 30(5c) IDD-D. The “the retail customer shall be duly informed about the possibility and conditions to get access to standard independent advice and the associated benefits and constraints”. These provisions mark a new, seemingly complex category of independent advice, which is not in the interests of consumers - particularly in terms of comprehensibility and clarity. Conclusion: This restrictive provision on the ban of inducements should be deleted in order not to dilute the comprehensibility of the prohibition of commissions.
- In contrast, Article 24a (1) MiFID II-D only prohibits inducements for execution-only services. Contrary to the IDD, inducements would still be allowed for non-advised sales. In the view of AK, it should be consistent if MiFID also prohibits inducements on financial instruments sold without advice. AK calls for these exemptions to be removed without replacement, as they are neither verifiable nor administrable, but - as in the case of the IDD-D - are to be classified as pure loopholes for commissions through the back door.

The Retail Investment Strategy also tightens the disclosure requirements for remuneration. AK welcomes these measures.

According to Article 29(1) d. IDD-D, consumers must be provided with information on all costs, associated charges and third-party payments in related to these services before the contract is concluded. However, the text also contains the wording that customers must be informed „where relevant“, which relativises the information obligation. AK therefore calls for this cost disclosure to be provided automatically and by

default and not only on request or „where relevant“. AK also demands that the costs be broken down into euro amounts, as information expressed as a percentage of a reference basis (e.g. „net premium amount“), which in some cases is not explained in detail, is not comprehensible. It is also important to disclose the specific commission, as commissions differ depending on the distribution channel.

AK conducted a study on „Remuneration transparency in financial sales“ ([„Vergütungstransparenz im Finanzvertrieb“](#)); banks, insurers, investment advisors, insurance brokers; autumn 2023), in which mystery shoppers also actively asked about remuneration. It shows that transparency of remuneration among financial intermediaries - collected as part of a large-scale mystery shopping study - is by no means a matter of course. The results of the study show that the „unsatisfactory“ answers were very numerous. Specifically, around two thirds of the banks, insurance companies, investment advisors and insurance brokers tested provided only „superficial“ or „unsatisfactory“ information on remuneration. These figures show that more effective disclosure of remuneration is required.

Apart from the need to disclose remuneration, AK is in favour of changes being made to the inducement system itself. AK has conducted a study („Commission vs. fees in financial sales for insurance investment products in comparison“ or [„Provisionen vs. Honorare im Finanzvertrieb bei Versicherungsanlageprodukten im Vergleich“](#)), which analyses commission systems and compares fee models for insurance investment products. The costs of a life insurance contract - acquisition costs, administration costs, other unit costs - are considerable, and consumers are often unaware of them.

The issue of acquisition costs is so important because they make up a considerable proportion of a life insurance contract, especially in the early years. This in turn means that the commissions „invisibly“ included in the insurance premium (acquisition commission, portfolio commission) - especially in the first phase of the contract or in the first 5 years of the term - „eat up“ a good part of the premium (the so-called cost part of the premium) and therefore only a relatively small part is actually invested (in the cover pool, in an investment fund) (the so-called savings part of the premium). The analyses are based on the following assumptions:

- Option 1: Commission-free policy, i.e. the tariff is based neither on an acquisition commission nor a portfolio commission, but on a fee paid by the insurance customer at the start of the contract.
- Option 2: Distribution of the brokerage commission

(acquisition costs) over the entire term of a life insurance contract.

- Option 3: Distribution of the brokerage commission (acquisition costs) over the first 5 years of the term of a life insurance contract.

The calculations show that, under all model assumptions, fee-based advice (assuming a one-off charge of either €350 or €1,000 plus an ongoing annual fee) brings monetary benefits when considering maturity benefits and surrender values. The modelling assumptions also show that the tariff that spreads the acquisition costs over the entire term often produces a higher maturity benefit than the tariff that spreads the costs over the first 5 years of the term. The current statutory rules - spreading the acquisition costs over the first 5 years - therefore brings considerable disadvantages for policyholders.

In addition to the partial ban on inducements proposed by the EU Commission, AK therefore suggests that advisors and intermediaries should be obliged to present various remuneration options for insurance investment products in order to a) make consumers aware of the various cost and remuneration scenarios and b) enable them to choose a remuneration model on their own responsibility. In this way, commission-free policies, which are ultimately advised/sold on a fee basis, should become better known and more widespread. This pre-contractual remuneration-related information (i.e. the presentation of different remuneration models) should be implemented if the partial ban on inducements pursued in the EU Retail Investment Strategy is not implemented after all.

On the value for money concept

One aim of this measure is to ensure that consumers are offered investment products that offer good value for money, but ultimately products with an unfavourable price-performance ratio are to be curbed in the first place.

The EU Commission is attempting to counter the phenomenon of high costs of investment products with a new approach. Consumers are to be made aware of the price-performance ratio (value for money) of an investment product, which is based on a newly established obligation: Product providers must identify, specify or quantify and assess all costs of the investment product. This process includes a comparison with a relevant benchmark, which is to be developed by the European supervisory authorities, which allows comparison of investment products that are similar in terms of performance, risk, strategy, objectives or other characteristics. The comparison

with a benchmark is intended to provide information on the extent to which an investment product deviates significantly from the average in terms of costs and performance.

The draft directive does not specify how these benchmarks are to be designed. It is therefore difficult, if not impossible, to make a judgement.

Digitalisation and influencer advertising

Digital information will be provided as standard for all insurance policies (not just investment products). At the request of the policyholder, information must be provided free of charge in paper form. Customers must also be informed about this option. This rule has been in place for securities for some time.

The new provision that all existing customers will be automatically switched to an electronic communication format if they do not object within eight weeks of being informed and continue to request paper information is to be rejected. AK is in favour of providing an opt-in solution instead of the planned opt-out.

The EU Commission has recognised the growing importance of marketing via social media and, in particular, via influencers. Accordingly, Article 4 (1) (66) MiFID II and Article 2 (1)(8)(20) IDD-E also cover the provision of information as advertising (marketing communication) that is not carried out by the provider itself but by third parties and only indirectly advertises certain financial instruments or insurance investment products. This refers to influencer marketing.

AK advocates that influencers should be required to disclose the following points and that these provisions should also be taken into account in the Retail Investment Strategy:

- Disclosure of the commercial status under commercial law.
- Clear, concise and conspicuous presentation of the information as to whether and for whom advertising activity exists.
- Clear, concise and conspicuous presentation of information on whether and to what extent benefits and remuneration from partnerships exist.
- From which sources posted information originates and how it can be substantiated by facts.



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About us

The Austrian Federal Chamber of Labour (AK) is by law representing the interests of about 3.8 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore, the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels.