



Council of the European Union
General Secretariat

Brussels, 15 September 2025

**Interinstitutional files:
2023/0167 (COD)**

WK 11576/2025 ADD 2

LIMITE

**EF
ECOFIN
CODEC**

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MEETING DOCUMENT

From:	Commission Services
To:	Working Party on Financial Services and the Banking Union (Retail Investment) Financial Services Attachés
N° Cion doc.:	ST 9671 2023 INIT
Subject:	Retail Investment Strategy - Omnibus Directive - Commission legal drafting reflecting the non-paper - Inducements

MiFID – Article 24a

[...]

3. Where the investment firm is not prohibited from paying or accepting and retaining inducements, in relation to services provided to its clients, it shall ensure that the reception or payment of such inducements does not impair compliance with the investment firm's duty to act honestly, fairly and professionally in accordance with the best interest of its clients. Investment firms shall be considered not to comply with their duty to act honestly, fairly and professionally in accordance with the best interest of their clients if their inducements or inducements schemes do not meet at least the following criteria:
 - (a) the inducement is based on a clear, comprehensible and transparent calculation method;
 - (b) the inducement provides a tangible benefit to the client;
 - (c) the level of inducements paid or accepted and retained is proportionate to the value of the financial instrument and the level of service provided to the relevant client;
 - (d) the inducement does not contain any form of variable or contingent threshold or any other kind of value accelerator which is unlocked by attaining a target based on volume or value of sales.

Investment firms shall fulfil the requirements set out above on an ongoing basis as long as they continue to pay or accept and retain the inducement.

Investment firms shall keep an internal list of all inducements paid or accepted and retained in relation to the provision of investment services or ancillary services and keep records of the inducements test performed in accordance with this article.

IDD – Article 29a

[...]

2a. Where the insurance intermediary or insurance undertaking is not prohibited from paying or accepting and retaining inducements, in relation to the distribution of insurance-based investment products, it shall ensure that the reception or payment of such inducements does not impair compliance with the insurance intermediary's or insurance undertaking's duty to act honestly, fairly and professionally in accordance with the best interest of its customers. Insurance intermediaries and insurance undertakings shall be considered not to comply with their duty to act honestly, fairly and professionally in accordance with the best interest of their customers if their inducements or inducements schemes do not meet at least the following criteria:

- (a) the inducement is based on a clear, comprehensible and transparent calculation method;
- (b) the inducement provides a tangible benefit to the customer;
- (c) the level of inducements paid or accepted and retained is proportionate to the value of the insurance-based investment product and the level of service provided to the relevant customer;
- (d) the inducement does not contain any form of variable or contingent threshold or any other kind of value accelerator which is unlocked by attaining a target based on volume or value of sales;
- (e) an appropriate mechanism exists for reclaiming the inducement in nominal value in case the product lapses or is surrendered at an early stage or in case the interests of the customer have been harmed as a result of non-compliance of the insurance intermediary or insurance undertaking with investor protection requirements.

Insurance intermediaries and insurance undertakings shall fulfil the requirements set out above on an ongoing basis as long as they continue to pay or accept and retain the inducement.

Insurance intermediaries and insurance undertakings shall keep an internal list of all inducements paid or accepted and retained in relation to the provision of manufacturing and/or distribution of insurance-based investment products and keep records of the inducements test performed in accordance with this Article.