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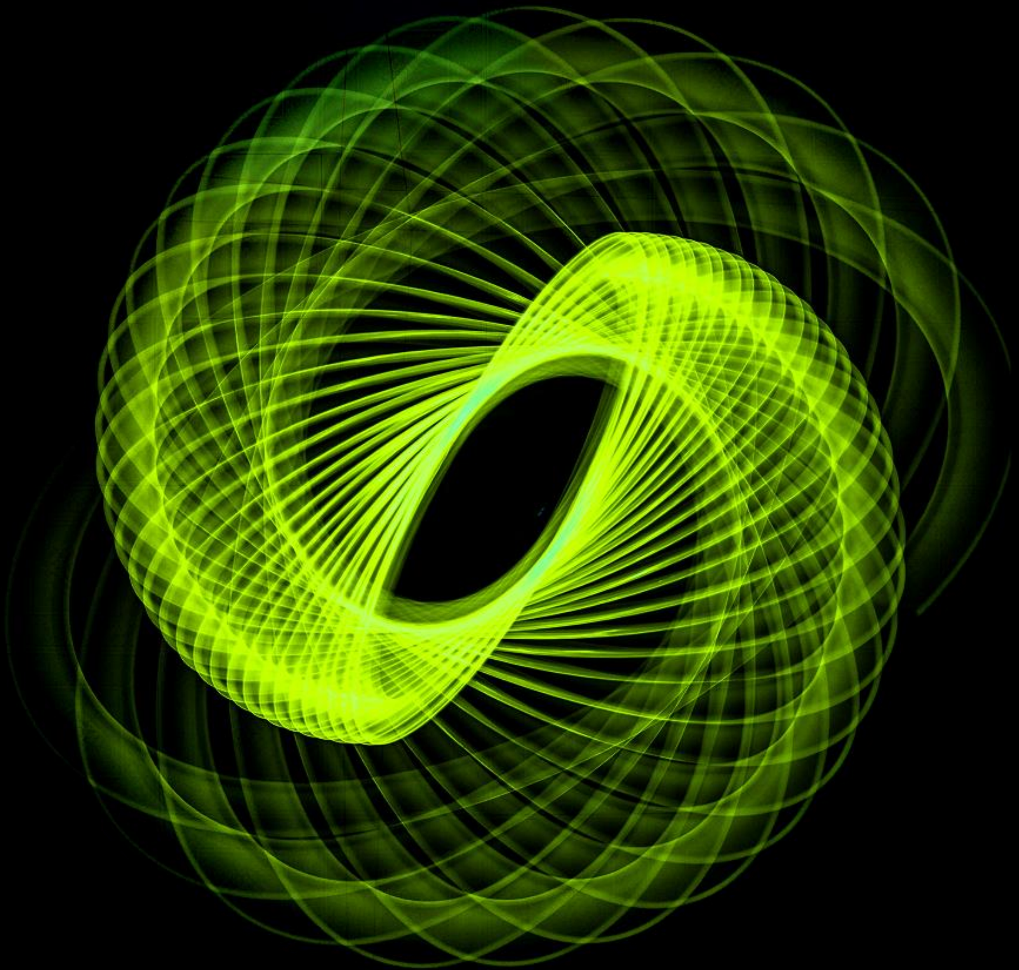

Inducements en vergoedingen onder de IDD

Patricia Goddet

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Contents

Overarching conduct of business rule

General principle

Insurance distributors should, when carrying out insurance distribution, always act honestly, fairly and professionally in accordance with the best interests of their customers.

- Insurance distributors are not remunerated or do not remunerate or assess the performance of their employees in a way that conflicts with the duty to act in the best interests of the customer.
- Insurance distributors shall not make any arrangements by way of remuneration, sales targets or otherwise that could provide an incentive to itself or its employees to recommend another product than the one that best meets the customer's needs.

Overarching conduct of business rule on which the other more specific rules are based = constitution

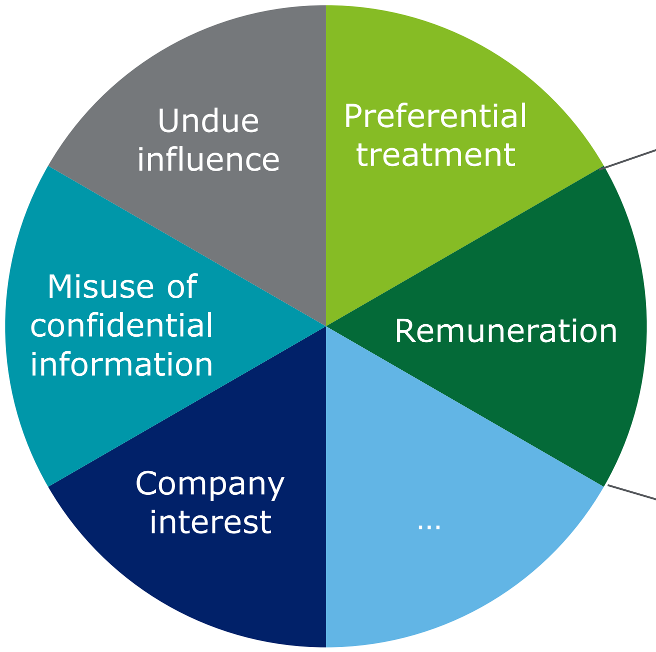
Catch-all rule for areas or situations not covered by the more specific conduct of business rules.

Conflicts of interest under IDD

Conflicts of interest	Conflicts of interest can exist between insurance companies and intermediaries, including their managers and employees, or any person directly or indirectly linked to them by control, and their customers or between one customer and another, that arise in the course of carrying out any insurance distribution activities.
Arrangements	Insurance distributor shall maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to prevent conflicts of interest from adversely affecting the interests of its customers. Those arrangements shall be proportionate to the activities performed, the insurance products sold and the type of the distributor.
Scope	The COI regime that we knew under AssurMiFID and that was applicable to all insurance products, is under the European Directive (IDD) only applicable to insurance-based investment products. The Belgian transposition act however confirms the broader application since the existence of conflicts of interest is not limited to only IBIPs (i.e. the conflicts of interest regime applies to all type of insurance products).

Conflicts of interest and remuneration / inducements

Examples of COI



Remuneration and, more particular, inducements, can create specific COI and are therefore regulated more strict.

Remuneration ("Vergoeding")

Any commission, fee, charge or other payment, including an economic benefit of any kind or any other financial or non-financial advantage or incentive offered or given in respect of insurance distribution activities.

Inducements

Any fee or commission, or any non- monetary benefit in connection with the distribution of **an insurance-based investment product** or an ancillary service, to or by any party **except the customer** or a person on behalf of the customer.

Recap: inducements and related requirements under AssurMiFID

3 categories of inducements

Category a) paid by or to the **client (or behalf of)**	Category b) **paid by or to a third party** (or behalf of)	Category c) proper fees
Recap conditions		
• No further assessment is necessary (*inherently included to not impair the duty to act in the best interests of the client*)	• TRANSPARENCY inducement must be clearly disclosed prior to the provision of the service • ENHANCEMENT TEST inducement must enhance the quality of the service to the client and not impair the duty to act in the best interests of the client	• Fees enable or are necessary for the provision of the services • Fees that by their nature, cannot give rise to conflicts with the duty to act in the best interests of the client
Transparency requirements		
• Inform the client prior to servicing about **costs and charges**	• Clear **prior disclosure** to the client • Can be a **summary disclosures that** at least includes a reasonable band range of payments (if exact amount is unknown) • Client needs to be informed of the right to request more information • A more **detailed disclosure** is to be provided **at the request of the client**	• To be further clarified, but most likely **further disclosure requirements** following the regulation on costs and charges

Requirements applicable to remuneration and inducements under IDD

<table>
<tr><th></th><th>Remuneration</th><th>Inducements</th><th colspan="2">Product scope</th></tr>
<tr><th></th><th></th><th></th><th>ALL</th><th>IBIPs</th></tr>
<tr><td rowspan="4">Applicable regime</td><td colspan="2">Overarching conduct of business rule & COI regime</td><td>✓</td><td></td></tr>
<tr><td colspan="2">Principle based disclosure (no disclosure of the amount)</td><td>✓</td><td></td></tr>
<tr><td></td><td>Stricter inducement regime : shift from enhancement test to “no detrimental impact”)</td><td></td><td>✓</td></tr>
<tr><td></td><td>Sector organisations are required to draft an inducement code that includes a non-exhaustive list of forbidden inducements and qualitative criteria</td><td>✓</td><td></td></tr>
<tr><td>Applicable to</td><td colspan="2">Insurance undertakings / intermediaries (all types of intermediaries including tied agents for inducements)</td><td>✓</td><td></td></tr>
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Principle based disclosure

General requirements

To the customer

In good time, before the conclusion of an insurance contract

General rule: paper; under certain conditions also a durable medium other than paper, or by means of a website are possible.

In general, the nature of the remuneration received in relation to the insurance contract (amount not necessary)

Principle based disclosure by the insurance intermediary

Types of remuneration / inducements under IDD

Type	Specification	Type of disclosure	Additional requirements
Fee (*"provisie"*)	Remuneration paid directly by the customer*	Nature of the remuneration	The amount of the fee, or if not possible, the calculation method
Commission	Remuneration included in the insurance premium		/
Other type of remuneration**	Any other type of remuneration, including an economic benefit of any kind offered or given in connection with the insurance contract		/
****Proper fees**	Fees enable or are necessary for the provision of the services		/

* *If any payments other then the ongoing premiums and scheduled payments are made by the customers under the insurance contract after its conclusion, additional disclosures will need to be made for each such payments.*

!! Applicable to all insurance products

Principle based disclosure by the insurance undertaking
Types of remuneration* / inducements under IDD

Type**	Specification	Type of disclosure	Additional requirements
Remuneration schedule of employees	The remuneration received by its employees in relation to the insurance contract	The nature of the remuneration	/

* *The requirements as included on this slide and the following – only relate to the transparency and inducement requirements under IDD. We have not included the general requirements with reference to the overall "remuneration" of the insurance undertaking. These remain applicable on top of the inducements requirements.*

** *If any payments other then the ongoing premiums and scheduled payments are made by the customers under the insurance contract after its conclusion, additional disclosures will need to be made for each such payments.*

!! Applicable to all insurance products

Stricter inducement regime

Shift from “enhancement test” to “no detrimental impact”

Inducements paid to or by insurance intermediaries or undertakings in connection with the distribution of **an insurance-based investment product** to or by any **third party** (except the customer or a person on behalf of the customer) should comply with the following conditions:

- They may not have a detrimental impact on the quality of the relevant service to the customer; and
- They may not impair compliance to act honestly, fairly and professionally in accordance with the best interest of the customer.

!! Only applicable to insurance-based investment products (IBIPs)

Stricter inducement regime

Assessment of “no detrimental impact”

Art. 8 of the Commission Delegated Regulation (EU) 2017/2359 sets out what should be taken into consideration when assessing whether an inducement or inducement scheme has a detrimental impact on the quality of the relevant service to the customer.

What ? Perform an overall analysis taking into account:

- all relevant factors which may increase or decrease the risk of detrimental impact; and
- any organizational measures taken by the insurance undertaking or insurance intermediary to prevent the risk of detrimental impact.

How? A documented internal inducement analysis to assess on an ongoing basis that the inducements / inducement schemes that they pay or receive comply with all the applicable requirements.

Who? Insurance distributors – so both insurance intermediaries as well as insurance undertakings

Frequency ? Insurance distributors should assess for themselves at what frequency the assessment should be performed in order to maintain continuous compliance with the inducement criteria.

Stricter inducement regime

Criteria to take into account in the assessment of “no detrimental impact”

The overall analysis to assess whether an inducement or inducement scheme has a detrimental impact on the quality of the relevant service to the customer should in particular consider following criteria of the inducement or inducement scheme:

- Existence of an incentive to offer / recommend another product than the one that meets best the customer’s needs
- Is it predominantly based on quantitative commercial criteria / does it take into account appropriate qualitative criteria (compliance with applicable regulations, quality of services provided to customers, customer satisfaction, …)
- The value of the inducement in relation to the value of the product / service provided
- Is it entirely or mainly paid at the moment of the conclusion of the contract or extends over the whole term of that contract
- Reclaiming mechanisms (product lapses / surrender of the product, …)
- A variable or contingent threshold / value accelerator unlocked by attaining a volume / sales based target

Stricter inducement regime

Applicable to all types of insurance intermediaries (including tied agents)

- In EIOPA’s view, the term inducement includes payments to insurance intermediaries, which are contractually obliged to conduct distribution activities exclusively with one or more insurance undertakings (such as tied agents).
- The arguments to include tied agents are based on the fact that these intermediaries are legally independent persons and there are no separate rules for tied intermediaries under IDD.

Inducement code to be drafted by sector organisations

Belgian inducement code

The Belgian regulator has decided to request all representative insurance sector organizations in Belgium to draft one single insurance code within 6 months after publication of the transposition law in the Belgian Official Gazette (18 December 2018).

The code should include at least:

- Criteria to assess whether companies receiving inducements comply with the obligation to act honestly, fairly and professionally in accordance with the best interests of the customer; and
- The code must entail a non-exhaustive list of inducements which are prohibited because they negatively affect the quality of the service provided to the customer.

!! Applicable to all insurance products

The King will determine the entry into force date of the inducement code and will enforce it by RD following FSMA advice.

Should the sector refrain from drafting and finalizing an inducement code within twelve months after the entry into force of the IDD transposition law, or in the absence of ratification of this inducement code by the King, the King will be requested to draft such an inducement code himself.

Very few gold plating of the inducements requirements in Belgium

Comparative view following an EMEA Deloitte study

- Member States were in the IDD invited to impose on many areas stricter rules, for instance by limiting or prohibiting the acceptance of inducements in relation to the distribution or the provision of advice.
- Belgium decided not (or only very limited) to goldplate the IDD, as was the case in many other EMEA countries
- The only exception would be that Belgium decided to impose stricter rules for non-monetary incentives by means of an inducement code.

Incentives

No stricter rules	Stricter rules for non-monetary incentives	Stricter rules for both monetary and non-monetary incentives
		

On the question whether any stricter rules have been imposed with reference to incentives, several participants confirmed that in their country stricter rules will apply for both monetary and non-monetary incentives.

Belgium opted for stricter rules for non-monetary incentives only, and an inducement code is to be drafted by the insurance sector.

Third party fees, commissions, monetary benefits

	Are they prohibited?	Will they need to be returned to the clients or offset against fees paid by the client?	For IBIPs, are brokers still allowed to receive it?
YES	For all Products: 		
	Only for IBIPs: 		
NO			

When it comes to third party fees, commissions and monetary benefits, the transposition considerably differs in between the different Member States.

It is important to note that many exemptions and specific rules are applied in each country (see detailed slide in Annex).

Requirements in relation to cost and related charges

In Belgium applicable to all insurance products (and not only IBIPs)

Art. 283, §6 stipulates that: "Insurance distributors shall provide to customers or potential customers,
- prior to the conclusion of an insurance contract and
- on every due date of an insurance contract,
- information on the costs and related charges."

The FSMA can by regulation further specify these requirements.

All type of products,

except large risks, IBIPS and second pillar pension

Existing FSMA regulation 24/02/2017 on cost and charges following the AssurMiFID regime.

Will be maintained going forward (confirmed by the FSMA).

Insurance-based investment products (IBIPs)

The PRIIPs KID, the Key Information Document, that includes information on the product related cost structure and its impact on the return of the product.

Art. 295, §1 imposes insurance distributors of IBIPs to provide additional information detailing any cost of distribution that is not already included in the costs specified in the key information document.

Requirements in relation to cost and related charges

Specific requirements for insurance-based investment products (IBIPs)

Art. 295, §1: Insurance distributors of IBIPs should provide their customers or potential customers in good time, before the conclusion of an insurance contract, information on all cost and related charges including:

- Information relating to the **distribution** of the insurance-based investment product, including the cost of advice;
- The cost of the insurance-based investment **product** recommended or marketed to the customer;
- How the customer may pay for it, also encompassing **any third party payments**.

If not caused by the occurrence of underlying market risk, in aggregated form to allow the customer to understand the overall cost as well as the cumulative effect on the return of the investment. Where the customer so requests, an itemized breakdown of the costs and charges shall be provided.

Recital 42 of the European IDD:

"(…). In **addition** to the information required to be provided in the form of the **key information document**, distributors of insurance-based investment products should provide **additional information detailing any cost of distribution** that is **not already included** in the costs specified in the key information document, so as to enable the customer to understand the **cumulative effect** that those aggregate costs have on the return of the investment. This Directive should therefore lay down rules on provision of information on costs of the distribution service connected to the insurance-based investment products in question."

Requirements in relation to cost and related charges

Intentions of a number of countries with respect to supplementary disclosure(s) on top of the PRIIPs KID, following an EMEA Deloitte study

Supplementary disclosure on costs and charges on top of the PRIIPs KID?

Position: YES

CZ – Information on total premium cost and information regarding what part of the total premium paid by customer create insurance cover, cost incurred with negotiating of the contract, other expenses of the insurance company and investment. They will also have to provide information on the amount paid at zero valorization after the expiry of insurance period.

IT – Obligation to provide the "DIP Aggiuntivo IBIP", a specific IPID model to be added to the KID.

HU – Cost and charges have to be disclosed in the terms and conditions of the products (on top of KID). In addition, there's a regulation in Hungary to provide the TKM ratio (Total Cost Indicator - sum of costs and charges in percentage form) of savings life products, that is mostly similar to RiY.

Position: NO

NL

UK

Position: Not clear yet

BE – No formal position available as yet ; however, based on art. 29 and recital 42 of the IDD , the sector is expected to perform its independent analysis.

SP – Not clear yet where to be included; either KID or separate paper

FR – Aggregated view of all costs and charges in Euro (real cost) instead of range of % per product / unit linked investments in the product

PL

GR

IR

DE

Inducements in practice

All of the following principles should be taken into account when defining the remuneration and commission flows

General principle	Conflicts of interest	Disclosure
Act honestly, fairly and professionally in accordance with the best interests of their customers	Take all appropriate steps to prevent, identify, mitigate and manage conflicts of interest. **Inducements** Inducement regime - perform an overall analysis to assess whether an inducement has a detrimental impact on the quality of the relevant service to the customer.	Provide all information on costs and charges, including **any third party payments**

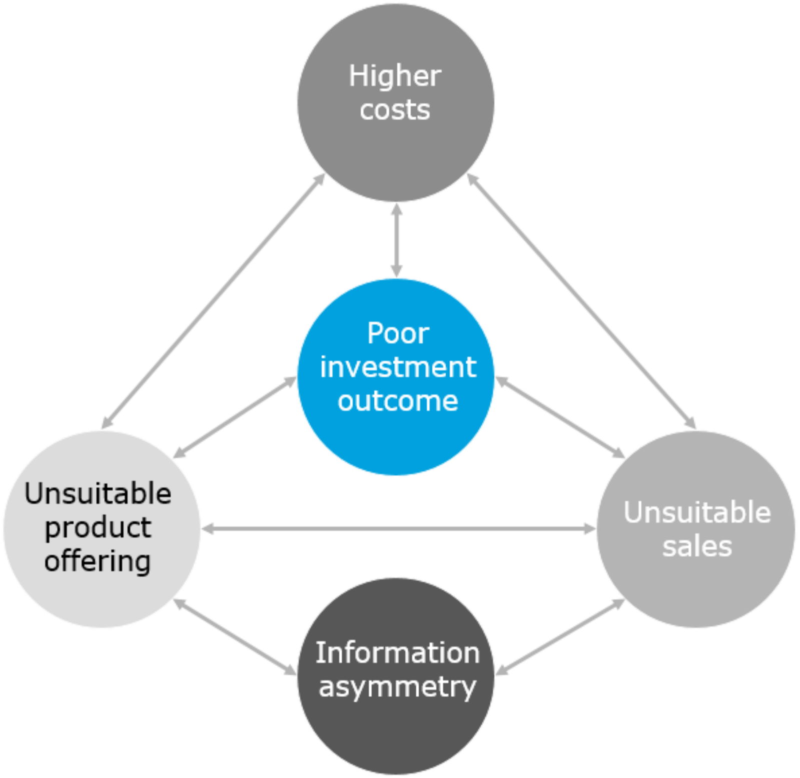
Inducements in practice

Good and poor practices when defining the remuneration and commission flows, following the 2013 FSMA inspection report on conflicts of interest (banking sector)

Good Practices	Poor Practices
• Link between **remunerations** and **qualitative requirements** (e.g. compliance with MiFID rules of conduct) • **Clear policies** (incentives, commercial goals etc.) • Determination of **commercial goals** so that a **sufficiently large offer** can be made to clients • **Monitoring by compliance** • Involvement of the **Compliance Department** in the **remuneration** process • Use of a wide range of information to **monitor the sales patterns** of individual sales staff, analysing trends and causes, with particular attention paid to those **staff selling most products** and other staff who may have been at a **higher risk of mis-selling** • **Claw backs** (incentive payments received by sales staff have to be repaid or offset against future incentives) • A programme of **outbound calls to customers** for the face-to-face sales teams, in addition to reviews carried out by sales managers. The calls are undertaken by a separate team and call scripts are used to check that the key features of the product and any relevant exclusions were properly explained. These calls are also monitored for quality control and consistency	• **Variable remuneration** of agents to encourage a preference for certain products • **Incentives** for a **limited period** and for a **limited amount of products** (or a single product), even if they have a limited value • Commercial goals stressing the "**offer of the month**" • **Sanctions** in the bonus scheme are **not applied despite problems** occurring • Senior managers responsible for incentive schemes do **not understand the risks to customers** created by the features of their incentive schemes or relied on other staff who do not understand the risks • **Inconsistency of monitoring** with the sales and bonus strategies, e. g. focus on the riskier products but not enough review of the products with the highest sales, or the products with large sales bonuses • **No additional monitoring** carried out on sales staff generating high sales volumes, or other staff whose sales patterns indicate increased risk, or who may have been under pressure to sell, e.g. due to fear of disciplinary action

Inducements in practice

Results from the EIOPA thematic review on consumer protection issues in the unit-linked market, published on 26 April 2017



Higher costs

Monetary incentives and remuneration retained by insurance undertakings may indirectly lead to higher costs. Most unit-linked policies pursue investment objectives and invest in asset classes which carry higher asset management charges.

Poor investment outcome

for policyholders arising from:

a) Inappropriate selection processes by insurance undertakings;

b) Poor governance/systems and controls including monitoring processes and outsourcing of functions.

Unsuitable product offering

Monetary practices can have an impact on how effectively insurance undertakings are adequately selecting underlying funds for policyholders, and might prevent the fund selection to be in accordance with the needs, characteristics and objectives of the identified target market.

Unsuitable sales

In case the remuneration of sales staff is a mirror of the incentives received from asset managers, this imposes a clear risk for promoting at the point of sale the distribution of products which provide a higher level of monetary incentives for insurance undertakings. This could distort the quality of the distribution and be a driver of unsuitable sales to policyholders.

Information asymmetry

A lack of (clear) disclosure on monetary practices, may prevent customers from taking an informed decision about which unit-linked product to invest in; the absence of clear disclosure on the nature and criteria used within the fund selection process, may lead consumers in some cases to draw a wrong conclusion on that process, for instance that the undertaking has preselected the most relevant or "good value" propositions for them.

Inducements in practice

Findings following the FSMA inspection report on duty to care (insurance companies), published in August 2017

Examples that entail an enhanced risk of conflicts of interest
• Incentive broker programs based on points ("punten systeem") that allow brokers to participate for free or at advantageous conditions to events (sports or other events) abroad. • Broker commission schemes that include production targets (the broker should on an annual basis sell at least X new contracts for him to be entitled to the commission). The FSMA considers that this might entail a strong incentive for the broker to place a minimum production with that insurance company and hence reference is made to FSMA statement of 2014 in its annual report, i.e. contractual clauses with respect to production targets are incompatible with the status of broker. • Tailored commission systems – or incentives programs – per product.

Questions

Contact details

Patricia Goddet

Director, Risk Advisory
FSI Governance, Regulatory & Risk

Tel: +32 2 800 2491
Mobile: +32 476 60 15 51
E-mail: pgoddet@deloitte.com