

	Investment advice	Suitability and Appropriateness	Tied agents
MIFID Description	<p>Definition Investment advice is the provision of personalised recommendations to a client, on his request or at the initiative of the investment company relating to one or more operations concerning financial instruments. It is one of the investment services which requires authorisation.</p> <p>When the investment company provides the advice service, it must obtain all the necessary information from the client on his knowledge and experience on the specific type of product or service, the financial situation and the investment objectives, in order to be able to recommend the investment services and financial instruments adapted to the client or potential client.</p> <p>Advice on financial instruments in a daily newspaper, journal, magazine or any other publication for the general public (including Internet) or television or radio transmissions is not considered as a personalised recommendation for the definition of investment advice.</p> <p>General advice General advice consists of asset allocation or financial planning activities and is a advice relating to a type of financial instrument. In itself, it is not reserved work but a possible exploitable and preparatory activity for each investment service so it is therefore called to that discipline.</p>	<p>Suitability When the investment company supplies investment advice and portfolio management services, he must obtain all the necessary information from the client on his knowledge and experience of investment, the specific type of product or service, the financial situation and aims of investment in order to be able to recommend the investment services and financial instruments suitable for the client. The information on the aims of investment of a client include data on the period of time for which the client wishes to hold the investment, his preferences on risk, his risk profile and the purpose of the investment. When an investment company which provides an investment advice service on investment is unsuccessful in obtaining information from the client it must refrain from recommending investment services or financial instruments to the client or potential client.</p> <p>Appropriateness When the investment company provides services other than investment advice and portfolio management, it must ask the client for information about his knowledge and experience of investment concerning the specific type of product or service offered or requested in order to decide if the service or product in question is appropriate for him. If the investment company considers that the product or service is inappropriate for the client, it must advise him of the situation. If the client chooses not to give the information or if it is insufficient, the investment company must advise the client that this decision will prevent it from deciding if the service or product is appropriate for him.</p>	<p>Definition The tied agent is a person or legal entity who, under the full and unconditioned responsibility of a single investment company on behalf of which he operates, promotes investment and/or ancillary services to clients or potential clients, receives and transmits the instructions or orders of clients concerning investment services or financial instruments, places these and/or gives advice to clients or potential clients in respect of those instruments or services.</p> <p>Member states may allow tied agents registered in their country to administer funds and/or financial instruments of their clients on behalf of and under the full responsibility of the investment company for which they operate in their country or, for cross-border activity, in the country of a member state which allows a tied agent to administer the client's funds. Tied agents must be registered in a public register; only when it has been ascertained that they fulfil the criterion of respectability and have the appropriate general, commercial and professional knowledge to be able to communicate precisely all the information concerning the service offered to the client or potential client. The register is updated regularly. It can be consulted by the public. If an investment company makes use of a tied agent established in a member state other than the member state of origin, that tied agent is equivalent to the branch and is subject to the provisions of the Directive on branches.</p>
MIFID ARTICLES	<p>Recital No 3 L1 Article 1 sub-para. 1.4 L1 Article 19 sub-para. 4 L1 Appendix 1 section A point 5 L1 Recital No 39 L2 Recital No 58 L2 Recital No 79 L2 Recital No 81 L2 Recital No 82 L2 Article 35 sub-para. 2 and 5 L2 Article 52 L2</p>	<p>Article 19 sub-paras 4 and 5 L1 Recital No 56 L2 Article 35 (suitability) Article 36 (appropriateness) Article 37 (common provisions)</p>	<p>Recital No 37 L1 Recital No 39 L1 Article 23 L1 Article 31 c2 b) Art. 32. 2 L1</p>
Articles in the Slovak discipline	<p>Legislation: Act No.566/2001Coll. On Securities and Investment Services Articles §6, §54, §73i, §123e.</p>	<p>Legislation: Act No. 566/2001 Coll. On Securities and Investment Services Articles § 61 to 61a</p>	<p>Legislation: Act No. 566/2001 Coll. On Securities and Investment Services Articles § 61 to 61a</p>

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<p>AFISP Comment</p>	<p>The MIFID regulations have been fully implemented into the Slovak Legislation. The Slovak definition is identical with the definition of MIFID. The definition of the personal recommendation has also been implemented in the same way. Investment advice can be given only by the persons having the license of the Slovak National Bank to provide the service of personal advice i. e. banks, brokers ´ companies with the capital stock of at least €120 000 and observing the regulations of the attitude to the client in compliance with the European financial market regulations. AFISP has no objections to the amendments to investment advice and meets completely the requirements of MIFID.</p>	<p>Slovak legislation fully complies with providing investment advice and financial instruments procurement on the basis of finding their suitability and appropriateness for a specific client. The MIFID regulations have been fully implemented also into this part of legislation. The emphasis is laid upon ascertaining suitability and appropriateness not only in providing investment advice but also in the portfolio management. AFISP Complies with the method of testing suitability and appropriateness as a fundamental obligation in procuring trades with financial instruments. AFISP is satisfied with the legislation framework for tie tied agents activities</p>	<p>In Slovakia there is full compliance with MIFID. Slovak legislation defines an investment service agent as a legal or natural person having the Slovak National Bank license on the basis of meeting the requirements on professional knowledge (practice or professional tests), sufficient education and moral integrity. Tied agent I can be a tied agent for only a single trader with securities and is registered separately by the Slovak National Bank. AFISP is satisfied with the legislation framework for tie tied agents activities</p>

	Branches	Inducements	Conflicts of interest
MIFID Description	<p>Definition An office of work other than the head office which is a part of an investment company without legal status which supplies investment services and/or work and which can also supply ancillary services for which the investment company has been authorised; all the offices of an investment company in the same member state which have the head office in another member state are considered as a single branch;</p> <p>If an investment company has a tied agent, established in a member state other than member state of origin, he is compared to a branch and subject to the provisions of the Directive on branches.</p>	<p>Definition Inducements consist of fees, commissions and non-monetary loans which may be paid or received by an investment company in relation to the provision of an investment or ancillary service to a client. Inducements are not generally allowed as it is believed that they lead the investment company to not act in the client's best interests. They are only acceptable in certain circumstances: a) the fees, commissions or non-monetary loans are paid or supplied to or by a client or a person on behalf of the client; b) fees, commissions or non-monetary loans are paid or supplied to or by a third party or a person acting on behalf of a third party, if the following conditions have been fulfilled: i) the existence, type and amount of fees, commissions or services must be clearly advised to the client in a complete, accurate and understandable manner before supply of the investment or ancillary service in question; ii) the payment of fees or commissions or the grant of non-monetary loans must be aimed at improving the quality of service supplied to the client and must not make compliance with the duty to serve the client's best interests by the company more difficult; c) appropriate fees which make the provision of investment services possible or are necessary for that purpose like, for example, custodial costs, settlement and exchange fees, the compulsory charges or legal fees, and which, by their nature, cannot enter into conflict with the duty of the company to act in an honest, fair and professional manner to serve the interests of its clients better.</p>	<p>Definition of the conflict of interest Investment companies must decide whether they, a significant body or a person with a direct or indirect controlling connection with the company is in a situation such that, at the time the investment services and accessories or a combination of them, could damage the interests of a client. In particular if: a) it is likely that the company or that body make a financial gain or avoid a financial loss, at the expense of the client; b) the company or that body have a separate interest from that of the client in the result of the service supplied or the operation made on his behalf; c) the company or that body have a financial or other incentive in privileging the interests of another client or group of clients with respect to those of the client involved; d) the company or that body carry out the same work as the client; e) the company or that body receive or will receive an incentive, in the form of money, goods or services, different from the commission or fee normally invoiced for that service, from a person other than the client in relation to the service supplied to him.</p>
	<p>Member states must ensure that the supply of investment and ancillary services and/or the practise of investment work in their country can be made through the establishment of branches, as long as those services and that work are covered by the authorisation granted to the investment company or credit institute in its member state of origin. ancillary services can only be supplied with an investment service and/or work. Investment companies which want to establish a branch in the country of another member state must advise the competent authority their member state of origin and supply the following information: a) the member states in whose countries they intend setting up a branch; b) a programme of the work which also indicates the investment services and/or work and also the ancillary services given by the branch and its organisational structure and specifications if it intends to make use of tied agents; c) the address in the host member state at which documents can be requested; d) the names of the people in charge of the management of the branch.</p>		<p>Policy and register of conflicts of interest Investment companies must develop, apply and maintain an effective policy for the management of conflicts of interest which must be formulated in writing and appropriate for the size and organisation of the company and the nature, size and complexity of its work. Companies must also keep and regularly update a register in which the types of investment services, accessories or investment work carried out by the company or on its behalf, from which a conflict of interest has arisen or, for an ongoing service or activity, could arise which risks seriously harming the interest of one or more clients.</p>
MIFID ARTICLES	<p>Recital No 32 L1 Article 32 L1 Article 61</p>	<p>Article 19 para.1 L1 Recital No 39 L2 Recital No 40 L2 Article 26 L2</p>	<p>Recital No. 29 L1 Article 13.3 L1 Article 18 L1 Recital No 3 L2 Recital No 25 L2 Recital No 26 L2 Recital No 27 L2 Article 21 L2 Article 22 L2 Article 23 L2 Article 30 c.1(h)-(i) L2</p>
Articles in the Slovak discipline	<p>Slovak Legislation Slovak legislation for branch activities complies fully with MIFID and EU legislation.</p>	<p>Legislation: Act No.566/2001Coll. On Securities and Investment Services Articles § 73b</p>	<p>Legislation: Act No.566/2001Coll. On Securities and Investment Services Articles § 71f to71r</p>

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<p>AFISP Comment</p>	<p>AFISP support the amendments to branches considered as organizational units of investments service providers. The amendments relate to the company branches, which in their home country are liable to a supervisory body and their activities are registered in Slovakia. Similarly, the activity of the subjects having a license for Slovakia can secure the activity of their branches within EU region on the basis of special notification. A tied investment service agent is not identical with the branch of the investment service provider.</p>	<p>Slovak legislation defines the fees for provided service. Inducements other than fees for provided service are not allowed and are strictly prohibited. From inducements are excluded small promotion and souvenir objects which are acceptable.</p>	<p>AFISP declares its full compliance with MIFID and its support of the application of strict and clearly set regulations on the conflict of interests both in legislation and the activities of investment service providers as well. Strict regulations on the attitude to the client, which should anticipate and prevent conflict of interests in all situations and all contacts with a client, are implemented into the practice.</p>