

Subsidiary Legislation made under ss. 626A, and regulations 20(6), 21(13) and 37(4) of the Financial Services (Insurance Distribution Regulations) 2020

**Financial Services (Insurance Distribution Information  
and Conduct of Business) (Technical Standards)  
Regulations 2024**

**LN.2024/070**

*Commencement*

**2.5.2024**

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**ARRANGEMENT OF REGULATIONS**

Regulation

1. Title.
2. Commencement.
3. Technical Standards.
4. Revocation.

**ANNEX**

**TECHNICAL STANDARDS ON INFORMATION REQUIREMENTS AND  
CONDUCT OF BUSINESS RULES FOR THE DISTRIBUTION OF INSURANCE-  
BASED INVESTMENT PRODUCTS**

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*In exercise of the powers conferred on the Minister by section 626A of the Financial Services Act 2019 and regulations 20(6), 21(13) and 37(4) of the Financial Services (Insurance Distribution Regulations) 2020, the Minister has made these Regulations-*

**Title.**

1. These Regulations may be cited as the Financial Services (Insurance Distribution Information and Conduct of Business) (Technical Standards) Regulations 2024.

**Commencement.**

2. These Regulations come into operation on the day of publication.

**Technical Standards.**

3. The Technical Standards on Information Requirements and Conduct of Business Rules for the Distribution of Insurance-Based Investment Products, set out in the Annex to these Regulations, have effect.

**Revocation.**

4. Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products is revoked.

**ANNEX**

**TECHNICAL STANDARDS ON INFORMATION REQUIREMENTS AND  
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BASED INVESTMENT PRODUCTS**

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**CHAPTER 1**

**GENERAL PROVISIONS**

**Overview.**

1. These Standards apply to insurance distribution in relation to the sale of insurance-based investment products carried out by insurance intermediaries or insurance undertakings.

**Interpretation.**

2. In these Standards—

“inducement” means any fee, commission or non-monetary benefit provided by or to an insurance intermediary or insurance undertaking in connection with the distribution of an insurance-based investment product, to or by any party except the customer involved in the transaction in question or a person acting on behalf of that customer;

“inducement scheme” means a set of rules governing the payment of inducements, including the conditions under which the inducements are paid;

“insurance-based investment product” means an insurance product which offers a maturity or surrender value where that maturity or surrender value is wholly or partially exposed, directly or indirectly, to market fluctuations, but does not include—

- (a) non-life insurance products as listed in paragraph 22 of Schedule 2 to the Financial Services Act 2019;
- (b) life insurance contracts where the benefits under the contract are payable only on death or in respect of incapacity due to injury, sickness or disability;

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- (c) pension products which are recognised by law as having the primary purpose of providing the investor with an income in retirement, and which entitle the investor to certain benefits;
- (d) officially recognised occupational pension schemes authorised under Part 26 of the Act and subject to the Financial Services (Occupational Pensions Institutions) Regulations 2020 or the Financial Services (Insurance Companies) Regulations 2020; or
- (e) individual pension products for which a financial contribution from the employer is required by law and where the employer or the employee has no choice as to the pension product or provider;

“Insurance Distribution Regulations” means the Financial Services (Insurance Distribution Regulations) 2020;

“relevant person”, in relation to an insurance intermediary or insurance undertaking, means—

- (a) a director, partner or equivalent, or manager of the intermediary or undertaking;
- (b) an employee of the intermediary or undertaking, or any other individual whose services are placed at the disposal and under the control of the intermediary or undertaking, who is involved in the distribution of insurance-based investment products;
- (c) an individual who is directly involved in the provision of services to the intermediary or undertaking under an outsourcing agreement for the purpose of the distribution by the intermediary or undertaking of insurance-based investment products.

## **CHAPTER 2 CONFLICTS OF INTEREST AND INDUCEMENTS**

### **Identification of conflicts of interest.**

3.(1) For the purposes of identifying, in accordance with regulation 37 of the Insurance Distribution Regulations, the types of conflicts of interest that arise in the course of carrying out any insurance distribution activities related to insurance-based investment products and which entail a risk of damage to the interests of a customer, an insurance intermediary or insurance undertaking must assess whether it, a relevant person or any person directly or

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indirectly linked to it by control, has an interest in the outcome of the insurance distribution activities, which meets the following criteria—

- (a) it is distinct from the customer's or potential customer's interest in the outcome of the insurance distribution activities;
  - (b) it has the potential to influence the outcome of the distribution activities to the detriment of the customer.
- (2) An insurance intermediary or insurance undertaking must proceed in the same way for the purposes of identifying conflicts of interest between one customer and another.
- (3) For the purposes of any assessment under paragraph (1), an insurance intermediary or insurance undertaking must take into account, in particular, whether—
- (a) the insurance intermediary or insurance undertaking, a relevant person or any person directly or indirectly linked to it by control is likely to make a financial gain, or avoid a financial loss, to the potential detriment of the customer;
  - (b) the insurance intermediary or insurance undertaking, a relevant person or any person directly or indirectly linked to it by control has a financial or other incentive to favour the interest of another customer or group of customers over the interest of the customer;
  - (c) the insurance intermediary or insurance undertaking, a relevant person or any person directly or indirectly linked by control to an insurance intermediary or an insurance undertaking is substantially involved in the management or development of insurance-based investment products, in particular where such a person has an influence on the pricing of those products or their distribution costs.

**Conflicts of interest policy.**

4.(1) For the purposes of regulation 36 of the Insurance Distribution Regulations, an insurance intermediary or insurance undertaking must establish, implement and maintain an effective conflicts of interest policy set out in writing and appropriate to its size and organisation and the nature, scale and complexity of its business.

(2) Where the insurance intermediary or insurance undertaking is a member of a group, the policy established under paragraph (1) must take into account any circumstances, of which the intermediary or undertaking is or should be aware, which may give rise to a conflict of

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interest arising as a result of the structure and business activities of other members of the group.

(3) The conflicts of interest policy established under paragraph (1) must include the following content—

- (a) with reference to the specific insurance distribution activities carried out, the circumstances which constitute or may give rise to a conflict of interest entailing a risk of damage to the interests of one or more customers;
- (b) procedures to be followed and measures to be adopted in order to manage such conflicts and prevent them from damaging the interests of the customer.

**Procedures and measures under the conflicts of interest policy.**

5.(1) The procedures and measures referred to in Article 4(3)(b) must be appropriate to the size and activities of the insurance intermediary or insurance undertaking and of any group to which it belongs, and to the risk of damage to the interests of the customer.

(2) The procedures to be followed and measures to be adopted in accordance with Article 4(3)(b) must include, where appropriate, the following—

- (a) effective procedures to prevent or control the exchange of information between relevant persons engaged in activities involving a risk of conflict of interest where the exchange of that information may damage the interests of one or more customers;
- (b) the separate supervision of relevant persons whose principal functions involve carrying out activities on behalf of, or providing services, to customers whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the insurance intermediary or insurance undertaking;
- (c) the removal of any direct link between payments, including remuneration, to relevant persons engaged in one activity and payments, including remuneration, to different relevant persons principally engaged in another activity, where a conflict of interest may arise in relation to those activities;
- (d) measures to prevent or limit any person from exercising inappropriate influence over the way in which insurance distribution activities are carried out by the insurance intermediary or insurance undertaking or its managers or employees or any person directly or indirectly linked to it by control;

- (e) measures to prevent or control the simultaneous or sequential involvement of a relevant person in separate insurance distribution activities where such involvement may impair the proper management of conflicts of interest;
- (f) a gifts and benefits policy which determines clearly under which conditions gifts and benefits can be accepted or granted and which steps are to be taken when accepting and granting gifts and benefits.

(3) Where an insurance intermediary or insurance undertaking can demonstrate that the measures and procedures referred to in paragraph (1) and (2) are not appropriate to ensure that the insurance distribution activities are carried out in accordance with the best interest of the customer and are not biased due to conflicting interests of the intermediary or undertaking, another insurance intermediary or insurance undertaking or another customer, the intermediary or undertaking must adopt adequate alternative measures and procedures for that purpose.

**Disclosure of conflicts.**

6.(1) An insurance intermediary or insurance undertaking must avoid over-reliance on disclosure, to ensure that disclosure to customers under regulation 37(2) of the Insurance Distribution Regulations is a measure of last resort that can be used only where the effective organisational and administrative arrangements established by the intermediary or undertaking to prevent or manage conflicts of interest in accordance with regulation 36 of those Regulations are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of the customer will be prevented.

(2) For the purposes of a disclosure of conflicts of interest an insurance intermediary or insurance undertaking must—

- (a) provide a specific description of the conflict of interest in question;
- (b) explain the general nature and sources of the conflict of interest;
- (c) explain the risks to the consumer that arise as a result of the conflict of interest and the steps undertaken to mitigate those risks;
- (d) clearly state that the organisational and administrative arrangements established by the intermediary or undertaking to prevent or manage the conflict of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of the customer will be prevented.



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**Review of conflicts.**

7. For the purposes of regulation 36 of the Insurance Distribution Regulations, an insurance intermediary or insurance undertaking must assess and periodically review, on an at least annual basis, the conflicts of interest policy established in accordance with Article 4 and take all appropriate measures to address any deficiencies.

**Record keeping.**

8.(1) An insurance intermediary or insurance undertaking must keep and regularly update a record of the situations in which a conflict of interest entailing a risk of damage to the interests of a customer has arisen or, in the case of an ongoing service or activity may arise.

(2) An insurance intermediary or insurance undertaking must ensure that its senior management receive on a frequent basis, and at least annually, written reports on the situations referred to in the paragraph (1).

**Assessment of inducements and inducement schemes.**

9.(1) An inducement or inducement scheme must be considered to have a detrimental impact on the quality of the relevant service to the customer where it is of such a nature and scale that it provides an incentive to carry out insurance distribution activities in a way that is not in compliance with the obligation to act honestly, fairly and professionally in accordance with the best interests of the customer.

(2) For the purposes of assessing whether an inducement or inducement scheme has a detrimental impact on the quality of the relevant service to the customer, an insurance intermediary or insurance undertaking must perform an overall analysis taking into account all relevant factors which may increase or decrease the risk of detrimental impact on the quality of the relevant service to the customer, and any organisational measures taken by the intermediary or undertaking carrying out distribution activities to prevent the risk of detrimental impact.

(3) An insurance intermediary or insurance undertaking must, in particular, consider the following criteria—

- (a) whether the inducement or inducement scheme could provide an incentive to the intermediary or undertaking to offer or recommend a particular insurance product or a particular service to the customer despite the fact that the intermediary or

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undertaking would be able to offer a different insurance product or service which would better meet the customer's needs;

- (b) whether the inducement or inducement scheme is solely or predominantly based on quantitative commercial criteria or whether it takes into account appropriate qualitative criteria, reflecting compliance with applicable regulations, the quality of services provided to customers and customer satisfaction;
- (c) the value of the inducement paid or received in relation to the value of the product and the services provided;
- (d) whether the inducement is entirely or mainly paid at the moment of the conclusion of the insurance contract or extends over the whole term of that contract;
- (e) the existence of an appropriate mechanism for reclaiming the inducement in case the product lapses or is surrendered at an early stage or in case the interests of the customer have been harmed;
- (f) the existence of 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.

### CHAPTER 3

#### ASSESSMENT OF SUITABILITY AND APPROPRIATENESS

##### SECTION 1

##### Assessment of suitability

###### **Assessing suitability.**

10.(1) For the purposes of providing advice on an insurance-based investment product in accordance with regulation 21(1) and (2) of the Insurance Distribution Regulations, an insurance intermediary or insurance undertaking must determine the extent of the information to be collected from the customer or potential customer in light of all the features of the advice to be provided to the customer or potential customer.

(2) Without limiting regulation 13(1) of the Insurance Distribution Regulations, which requires any contract proposed to be consistent with the customer's demands and needs, an insurance intermediary or insurance undertaking must obtain from customers or potential customers such information as is necessary for it to understand the essential facts about the

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customer or potential customer and to have a reasonable basis for determining that any personal recommendation to the customer or potential customer satisfies all of the following criteria—

- (a) it meets the customer's or potential customer's investment objectives, including that person's risk tolerance;
- (b) it meets the customer's or potential customer's financial situation, including that person's ability to bear losses;
- (c) it is such that the customer or potential customer has the necessary knowledge and experience in the investment field relevant to the specific type of product or service.

(3) The information regarding the customer's or potential customer's financial situation, including that person's ability to bear losses, must include, where relevant, information on the source and extent of the customer's or potential customer's regular income, assets, including liquid assets, investments and real property and the regular financial commitments.

(4) The information regarding the customer's or potential customer's investment objectives, including that person's risk tolerance, must include, where relevant, information on the length of time for which the customer or potential customer wishes to hold the investment, that person's preferences regarding risk taking, the risk profile, and the purposes of the investment.

(5) The level of information gathered under paragraph (3) and (4) must be appropriate to the specific type of product or service being considered.

(6) Where an insurance intermediary or insurance undertaking does not obtain the information required under regulation 21(1) and (2) of the Insurance Distribution Regulations, it must not provide advice on insurance-based investment products to the customer or potential customer.

(7) When providing advice on an insurance-based investment product in accordance with regulation 21(1) and (2) of the Insurance Distribution Regulations, an insurance intermediary or insurance undertaking must not make a recommendation where none of the products are suitable for the customer or potential customer.

(8) When providing advice that involves switching between underlying investment assets, an insurance intermediary or insurance undertaking must also collect the necessary information on the customer's existing underlying investment assets and the recommended

new investment assets and must undertake an analysis of the expected costs and benefits of the switch, such that intermediary or undertaking is reasonably able to demonstrate that the benefits of switching are expected to be greater than the costs.

**Reliability of information.**

11.(1) An insurance intermediary or insurance undertaking must take reasonable steps to ensure that the information collected about customers and potential customers for the purposes of the assessment of suitability is reliable.

(2) The steps which an intermediary or undertaking take under paragraph (1) include, in particular—

- (a) ensuring that customers are aware of the importance of providing accurate and up-to-date information;
- (b) ensuring that all tools, such as risk assessment profiling tools or tools to assess a customer's knowledge and experience, employed in the suitability assessment process are fit-for-purpose and are appropriately designed for use with its customers, with any limitations identified and actively mitigated through the suitability assessment process;
- (c) ensuring that questions used in the process are likely to be understood by the customer and to capture an accurate reflection of the customer's objectives and needs and the information necessary to undertake the suitability assessment;
- (d) taking steps, as appropriate, to ensure the consistency of customer information, such as considering whether there are obvious inaccuracies in the information provided by the customer.

**Communication with customers regarding suitability assessment.**

12.(1) An insurance intermediary or insurance undertaking must not create any ambiguity or confusion about its responsibilities in the process of assessing the suitability of insurance-based investment products in accordance with regulation 21(1) and (2) of the Insurance Distribution Regulations.

(2) An insurance intermediary or insurance undertaking must inform customers, clearly and simply, that the reason for assessing suitability is to enable the intermediary or undertaking to act in the customer's best interest.

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**Automated advice.**

13. An insurance intermediary's or insurance undertaking's responsibility to perform a suitability assessment in accordance with regulation 21(1) and (2) of the Insurance Distribution Regulations is not reduced where advice on insurance-based investment products is provided in whole or in part through an automated or semi-automated system.

**Group insurance.**

14.(1) With regard to group insurance, an insurance intermediary or insurance undertaking must establish and implement a policy as to who is to be subject to the suitability assessment where an insurance-based investment product is concluded on behalf of a group of members and each individual member cannot take an individual decision to join.

(2) The policy established under paragraph (1) must contain rules on how an assessment is to be done in practice, including from whom information about knowledge and experience, financial situation and investment objectives is to be collected.

(3) An insurance intermediary or insurance undertaking must record the policy established under paragraph (1).

**Suitability statement.**

15.(1) When providing advice on the suitability of an insurance-based investment product in accordance with regulation 21(1) and (2) of the Insurance Distribution Regulations, an insurance intermediary or insurance undertaking must provide a statement to the customer (a suitability statement) that includes—

- (a) an outline of the advice given;
- (b) information on how the recommendation provided is suitable for the customer, in particular how it meets—
  - (i) the customer's investment objectives, including that person's risk tolerance;
  - (ii) the customer's financial situation, including that person's ability to bear losses;
  - (iii) the customer's knowledge and experience.

(2) An insurance intermediary or insurance undertaking must include in the suitability statement, and draw the customer's attention to, information on whether the recommended insurance-based investment products are likely to require the customer to seek a periodic review of the arrangements.

(3) Where an insurance intermediary or insurance undertaking has informed the customer that it will carry out a periodic assessment of suitability, subsequent statements after the initial service is established may be limited to changes in the services or underlying investment assets, and the circumstances of the customer without repeating all the details contained in the first statement.

(4) An insurance intermediary or insurance undertaking providing a periodic assessment of suitability must review, in accordance with the best interests of its customer, the suitability of the recommended insurance-based investment products at least annually.

(5) The frequency of any periodic assessment must be increased based on the characteristics of the customer, such as the risk tolerance, and the nature of the recommended insurance-based investment product.

**SECTION 2****Assessment of appropriateness****Assessment procedure.**

16. Without limiting regulation 13(1) of the Insurance Distribution Regulations, which requires any contract proposed to be consistent with the customer's demands and needs, an insurance intermediary or insurance undertaking must determine whether the customer has the necessary knowledge and experience in order to understand the risks involved in relation to the service or product proposed or demanded when assessing whether an insurance service or product distributed in accordance with regulation 21(3) to (5) of those Regulations is appropriate for the customer.

**Non-complex insurance-based investment products.**

17. An insurance-based investment product may be considered as non-complex for the purposes of regulation 21(6)(b)(ii) of the Insurance Distribution Regulations where it satisfies all of the following criteria—

- (a) it includes a contractually guaranteed minimum maturity value which is at least the amount paid by the customer after deduction of legitimate costs;
- (b) it does not incorporate a clause, condition or trigger that allows the insurance undertaking to materially alter the nature, risk, or pay-out profile of the insurance-based investment product;
- (c) it provides options to surrender or otherwise realise the insurance-based investment product at a value that is available to the customer;
- (d) it does not include any explicit or implicit charges which have the effect that, even though there are technically options to surrender or otherwise realise the insurance-based investment product, doing so may cause unreasonable detriment to the customer because the charges are disproportionate to the cost to the insurance undertaking;
- (e) it does not in any other way incorporate a structure which makes it difficult for the customer to understand the risks involved.

**SECTION 3****Provisions common to the assessment of suitability and appropriateness****Information to be obtained from the customer.**

18.(1) For the purposes of regulation 21(1) to (5) of the Insurance Distribution Regulations, the necessary information to be obtained by an insurance intermediary or insurance undertaking with regard to the customer's or potential customer's knowledge and experience in the relevant investment field must include, where relevant (and to the extent appropriate to the nature of the customer, and the nature and type of product or service offered or demanded, including their complexity and the risks involved)–

- (a) the types of service, transaction, insurance-based investment product or financial instrument with which the customer or potential customer is familiar;
- (b) the nature, number, value and frequency of the customer's or potential customer's transactions in insurance-based investment products or financial instruments and the period over which they have been carried out;
- (c) the level of education, and profession or relevant former profession of the customer or potential customer.

(2) An insurance intermediary or insurance undertaking must not discourage a customer or potential customer from providing information required for the purposes of regulation 21(1) to (5) of the Insurance Distribution Regulations.

(3) Where information required for the purposes of regulation 21(1) and (2) or (3) to (5) of the Insurance Distribution Regulations has already been obtained under regulation 13 of those Regulations, an insurance intermediary or insurance undertaking must not request it again from the customer.

(4) An insurance intermediary or insurance undertaking is entitled to rely on the information provided by its customers or potential customers unless it is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete.

**Periodic reporting.**



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19.(1) Without limiting regulation 169 of the Financial Services (Insurance Companies) Regulations 2020, an insurance intermediary or insurance undertaking must provide the customer with a periodic report, on a durable medium, of the services provided to and transactions undertaken on behalf of the customer.

(2) The periodic report required under paragraph (1) must provide a fair and balanced review of the services provided to and transactions undertaken on behalf of the customer during the reporting period and must include, where relevant, the total costs associated with those services and transactions, and the value of each underlying investment asset.

(3) The periodic report required under paragraph (1) must be provided at least annually.

**Retention of records.**

20.(1) Without limiting the data protection legislation, an insurance intermediary or insurance undertaking must maintain records of the assessment of suitability or appropriateness undertaken in accordance with regulation 21(1) to (5) of the Insurance Distribution Regulations.

(2) The records maintained under paragraph (1) must include the information obtained from the customer and any documents agreed with the customer, including documents that set out the rights of the parties and the other terms on which the insurance intermediary or insurance undertaking will provide services to the customer.

(3) The records must be retained for at least the duration of the relationship between the intermediary or undertaking and the customer.

(4) In the case of an assessment of suitability undertaken in accordance with regulation 21(1) and (2) of the Insurance Distribution Regulations, the record must also include the following—

- (a) the result of the suitability assessment;
- (b) the recommendation made to the customer and the statement provided in accordance with Article 15(1);
- (c) any changes made by the intermediary or undertaking with regard to the suitability assessment, in particular any change to the customer's risk tolerance;
- (d) any changes to the underlying investment assets.

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(5) In the case of an assessment of appropriateness undertaken in accordance with regulation 21(3) to (5) of the Insurance Distribution Regulations, the record must also include the following–

- (a) the result of the appropriateness assessment;
- (b) any warning given to the customer where the insurance-based investment product was assessed as potentially inappropriate for the customer, whether the customer asked to proceed with concluding the contract despite the warning and, where applicable, whether the intermediary or undertaking accepted the customer's request to proceed with concluding the contract;
- (c) any warning given to the customer where the customer did not provide sufficient information to enable the intermediary or undertaking to assess the appropriateness of the insurance-based investment product, whether the customer asked to proceed with concluding the contract despite the warning and, where applicable, whether the intermediary or undertaking accepted the customer's request to proceed with concluding the contract.

(6) The records must be retained in a medium that allows the storage of information in a way accessible for future reference by the GFSC. The GFSC must be able to access them readily, to reconstitute each element in a clear and accurate manner and easily identify any changes, corrections or other amendments, and the contents of the records prior to such modifications.