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Additional Information

Level 1 Regulation
Directive 2014/65/EU - Markets in Financial Instruments Directive (MiFID II)

Level 2 Regulation
Regulation 2017/565 - MiFID II Delegated Regulation

Topic
Remuneration

Subject Matter
MiFID II remuneration rules applicable to tied agents

Question
1. Does a tied agent have to be remunerated with both a variable component of remuneration (based on the actual activities performed by the tied agent, i.e., dependent on performance) and a fixed component of remuneration, as stipulated in Article 27 of Regulation (EU) 2017/565?

2. Would the answer to the first question change if the tied agent is engaged by a person falling under Article 3 of the MiFID II Directive, i.e., assuming that a Member State adopts

this optional exemption under Article 3 of the MiFID II Directive and incorporates it into its national legislation?

ESMA Answer

23-02-2026

Original language

1. Tied agents of investment firms are in scope of the definition of “relevant persons” of Article 2(1) of Delegated Regulation 2017/565 and, as such, the requirement in the second subparagraph of Article 27(4) of the same regulation to maintain for relevant persons a balance between fixed and variable remuneration also applies to them.?

Recital 41 of Delegated Regulation 2017/565 confirms that “*Relevant persons should also include tied agents.”* However, it introduces some flexibility in the application of the remuneration requirements applicable to “relevant persons” due to tied agents’ special status and national specificities applicable to it: “*When determining the remuneration for tied agents, firms should take the tied agents' special status and the respective national specificities into consideration. However, in such cases, firms' remuneration policies and practices should still define appropriate criteria to be used to assess the performance of relevant persons, including qualitative criteria encouraging the relevant persons to act in the best interests of the client.”*

This recital should be understood as permitting the variable remuneration of tied agents of investment firms to represent a larger part of the remuneration than other categories of relevant persons, while the fixed component, when compatible with national laws, remains sufficient to ensure that the interests of the investment firm or its relevant persons are not favoured to the detriment of the interests of clients.

2. While ESMA acknowledges that the implementation of the exemption under Article 3 of MiFID II is a national discretion, it notes that Member States making use of this exemption shall submit the “exempted” persons to requirements which are at least analogous with the requirement in paragraph 2 which includes the requirements on remuneration of tied agents under Article 27 of Regulation (EU) 2017/565.