

**Question for written answer E-003497/2016**  
**to the Commission**  
Rule 130  
**Janusz Korwin-Mikke (NI)**

Subject: Classification of financial instruments

In some Member States financial instruments are not covered by laws governing the organisation of and participation in gambling activities, despite the fact that the money paid out (return) on short- or long-term investments cannot be predicted when the initial transaction takes place. That element of unpredictability could cause national gambling market regulators to regard such activities as gambling. On account of this, under Article 7a of the banking act, Poland has established an exemption from the provisions of the gambling act for all forward financial instruments, irrespective of the place of registration of their providers. However, those provisions are not based on any EU legislation.

1. Do similar exemptions exist in other Member States? If so, in which Member States and under what laws? Are Member States obliged to recognise financial instruments as such and not regard them as gambling if they have all the characteristics of a financial instrument as established in the MIFID Directive?
2. Should entities outside the EU (e.g. US brokers or other suppliers of derivatives that come within the definition of 'financial instrument' laid down in the MIFID Directive) be treated in the same way?
3. Can the clients purchasing such instruments or the financial intermediaries making payments to the entities offering them for sale be held liable for organising or participating in gambling activities?