

**Question for written answer E-003499/2016
to the Commission**
Rule 130
Janusz Korwin-Mikke (NI)

Subject: Exemption from Article 3(k) of the Payment Services Directive (PSD)

Let us take the example of an entity registered in an EU Member State which holds an investment company licence authorising it to offer financial instruments and to accept and transfer orders, but which is not licensed to receive or hold customer funds, and which acts as an intermediary in the sale of financial instruments provided by another entity.

That entity works with a financial intermediary, which, on the basis of a separate contract with the final provider of the financial instruments, takes orders from customers and transfers the funds directly to the final provider, bypassing the aforementioned entity.

In the case of such an agreement, on the basis of which the intermediary transfers funds to (and from) the final provider, but only for the type of instrument offered by the final provider, which is a party to the agreement, and taking account of the fact that the final provider does not allow the transfer of funds or instruments between accounts, is the intermediary service exempted from the PSD restrictions under Article 3(k)?

In accordance with recital 6 of the Directive, this exclusion seems to apply. The intermediary in this case knows exactly which institution the customer is transferring the funds to and what goods the customer is purchasing, and that these funds will not reach any entity other than the final provider with whom it has signed a contract for those transactions.