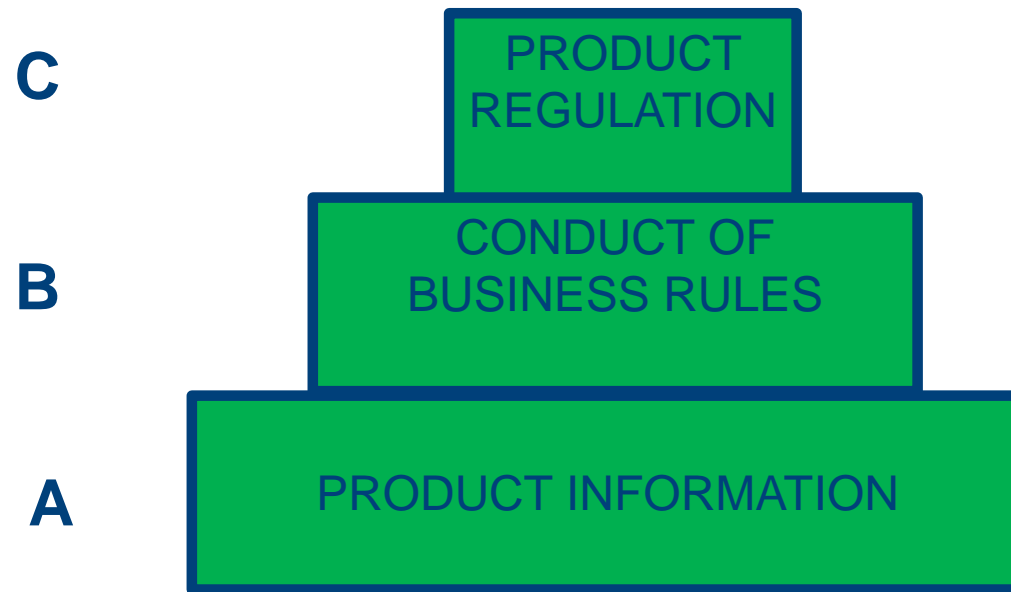


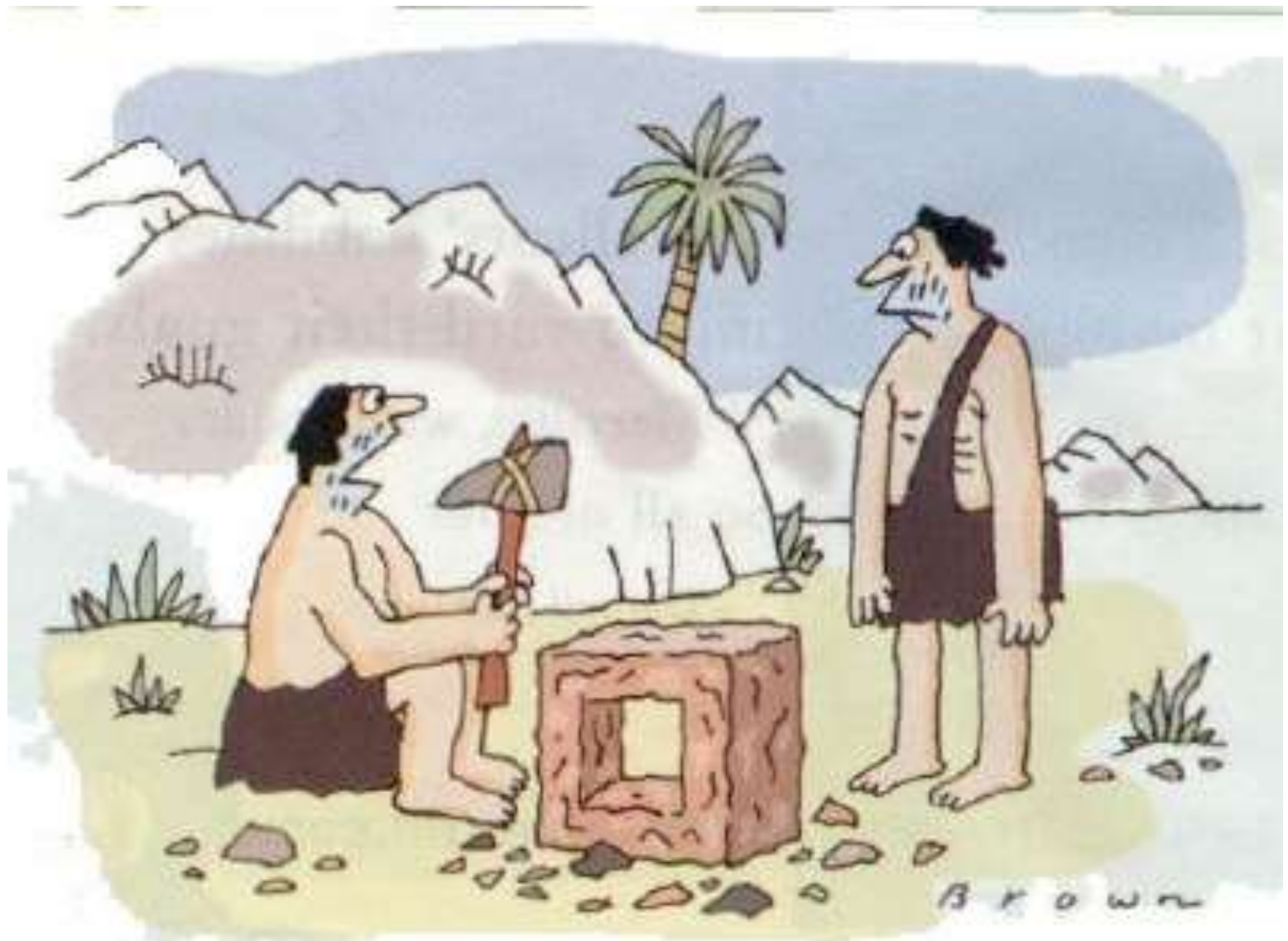
Recent trends in Investor Protection Regulation

Prof. Dr. Veerle Colaert
KU Leuven



Building blocks of investor protection





"I call my invention 'The Wheel,' but so far I've been unable to attract any venture capital."

A. Information – background

- Information paradigm
 - Cf Prospectus obligation
- Limits to the information paradigm
 - Information overload
 - Limits to investor rationality
 - Cost
 - Responsibility shift

A. Information – recent trends

1. Increased focus on short information

- Summary prospectus
- UCITS simplified prospectus

2. Increased focus on presentation and form

- UCITS KIID
- National measures introducing standardized information documents
- PRIIPs KID
- Prospectus KID

Risicolabel

laag
risico



hoog
risico



**Don't take
any unnecessary
risks. Read the
Financial Leaflet.**

very high risk
medium risk
very little risk



risk indicator

THIS IS A MANDATORY ANNOUNCEMENT

**Don't take
any unnecessary
risks. Read the
Financial Leaflet.**

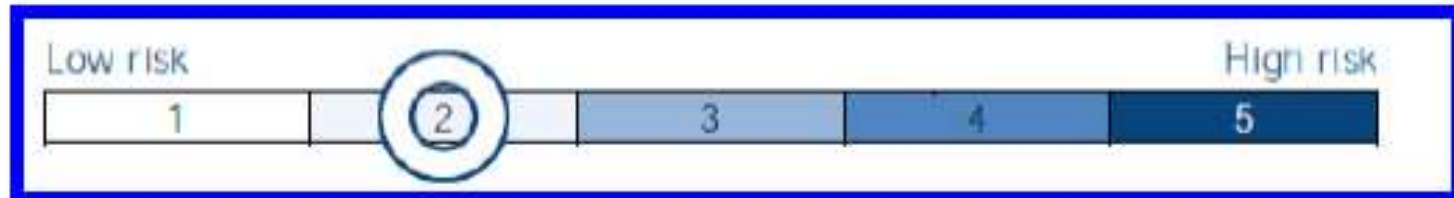
very high risk
medium risk
very little risk



risk indicator

THIS IS A MANDATORY ANNOUNCEMENT

Overall Risk



Market Risk



Credit Risk



Liquidity Risk





Lower risk

Higher risk



The risk indicator assumes you keep the product [for x years/ until date [where there is no exact maturity date]] [where applicable] The actual risk can vary significantly if you cash in at an early stage and you may get back less. [When considered illiquid][You [can not/may not be able to] cash in early][You [will/may] have to pay significant extra costs to cash in early. [When considered to have a materially relevant liquidity risk] You may not be able to sell [end] your product easily or you may have to sell [end] at a price that significantly impacts on how much you get back.]

Key Information Document

Purpose

This document provides you with key information about this investment product. It is not marketing material. The information is required by law to help you understand the nature, risks, costs, potential gains and losses of this product and to help you compare it with other products.

Product

[Name of Product] **[Name of PRIIP manufacturer]** [where applicable ISIN] [website for PRIIP manufacturer] Call [telephone number] for more information [Competent Authority of the PRIIP Manufacturer in relation the PRIIP] [date of production of the KID]

[Alert (where applicable) **You are about to purchase a product that is not simple and may be difficult to understand**]

What is this product?

Type

Objectives

Intended retail investor

[Insurance benefits]

What are the risks and what could I get in return?

Risk

Description of the risk-reward profile

Indicator

Summary Risk Indicator

SRI template and narratives as set out in Annex III, including on possible maximum loss: can I lose all invested capital? Do I bear the risk of incurring additional financial commitments or obligations? Is there capital protection against market risk?

Performance

Performance scenarios templates and narratives as set out in Annex V.

3. Towards a more cross-sectoral scope of application of product information regulation

Deposits:

- no EU regulation

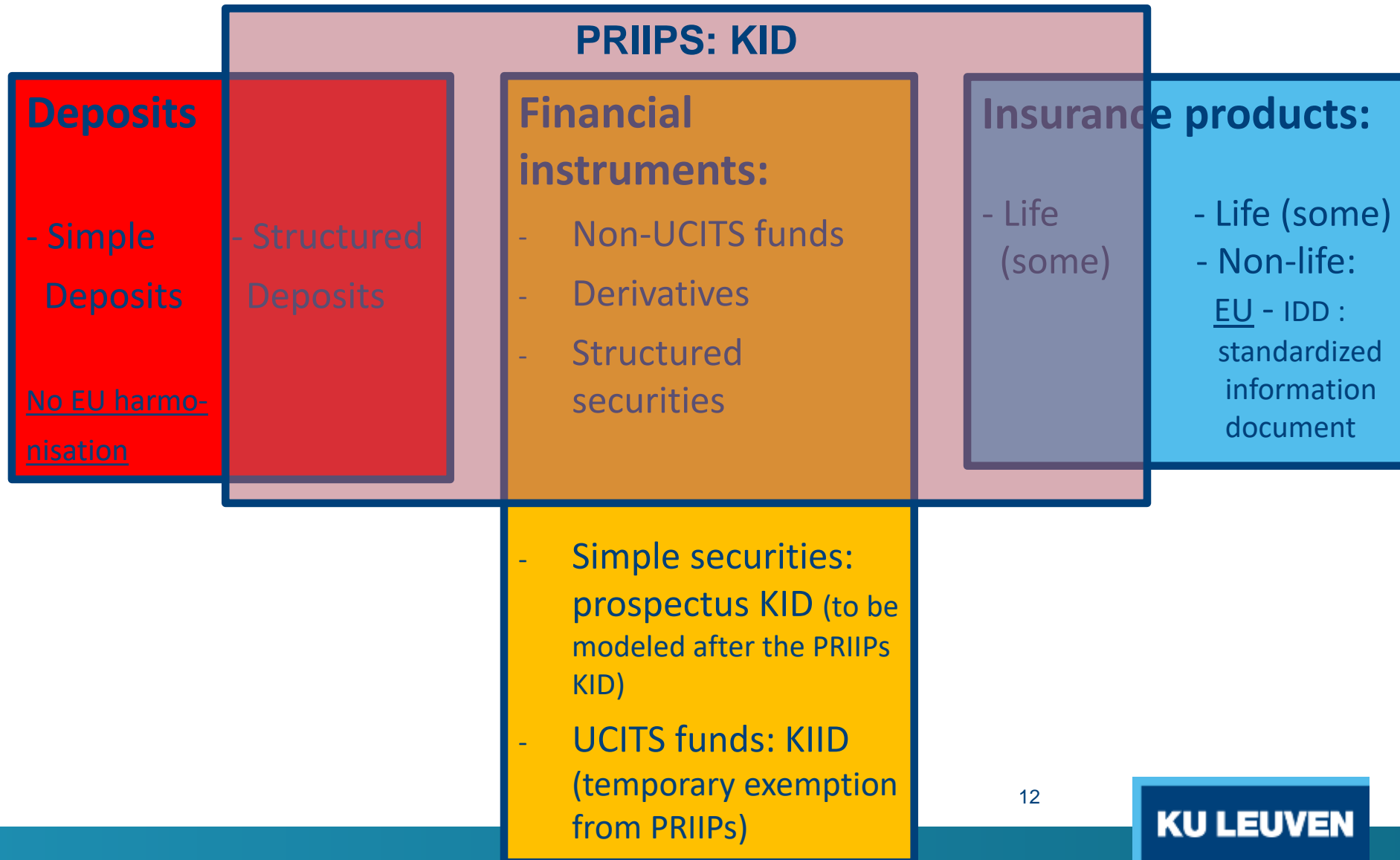
Financial instruments:

- Prospectus / summary prospectus
- UCITS funds: Prospectus and KIID
- Non-UCITS funds: no EU regulation
- Derivatives: no EU regulation

Insurance products:

- No EU product information

3. Towards a more cross-sectoral scope of application of product information regulation



A. Information – Recent Trends

4. Combination with other types of investor protection

- Service quality requirements (conduct of business rules)
- Product Regulation

B. Conduct of business rules - background

- Origin
- Definition
- Legal environment

B. Conduct of business rules – recent trends

1. Increasing detail from ISD to MiFID II

- E.g. investment advice
- E.g. inducements
- E.g. information obligations

2. Increasing number of conduct of business rules

- E.g. Cross-selling practices
- E.g. product governance

3. Increased need for interaction between product provider and services provider

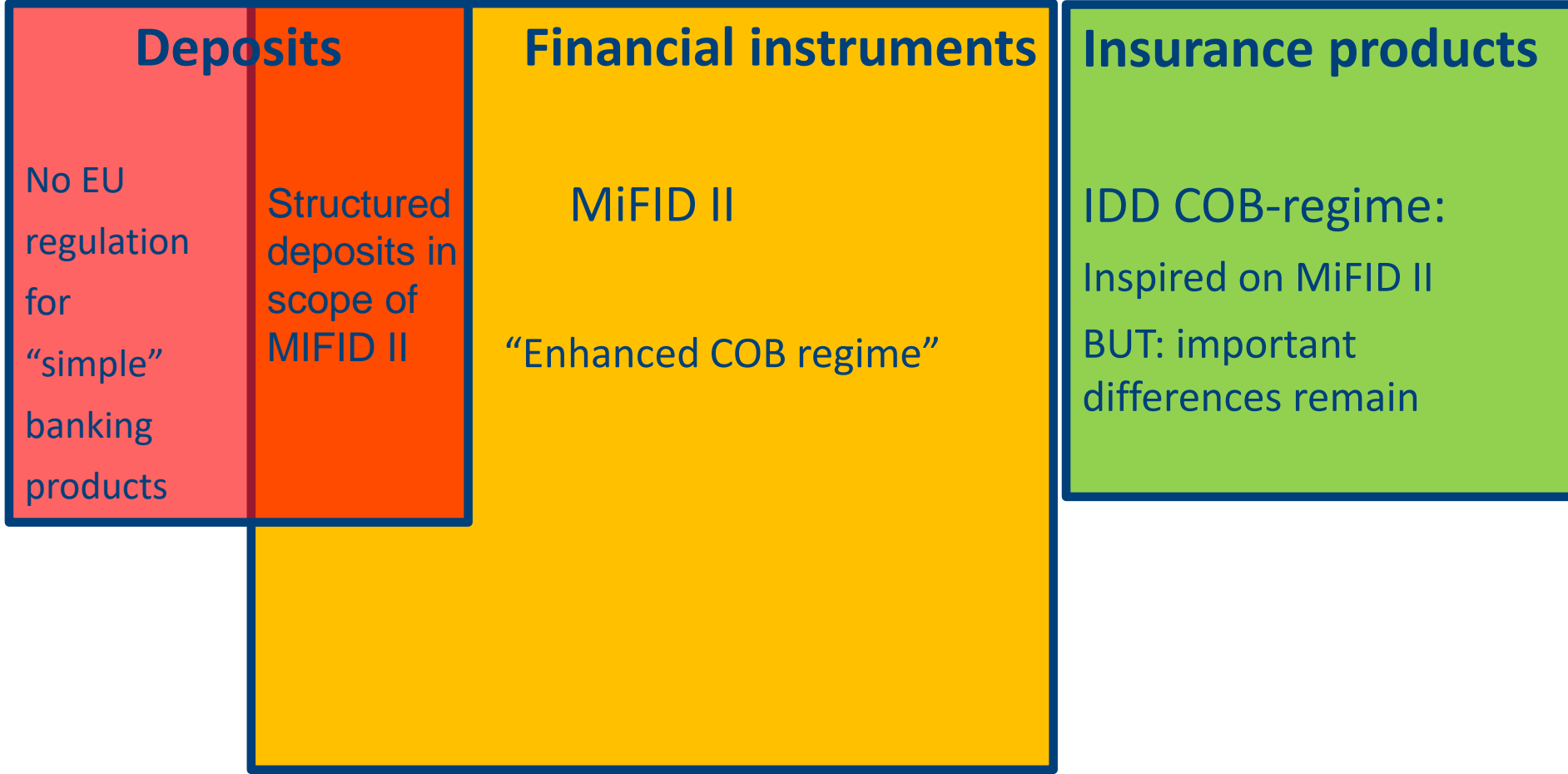
4. Widening scope of application of COB rules

Deposits:
no EU regulation

MiFID:
Extensive regulation for
financial instruments

IMD:
“Light” regulation for
insurance products

4. Widening scope of application of COB rules



C. Product Regulation - overview

1. Product quality requirements

- UCITS-rules
- AIFMD is more encompassing (exceptions)
- Other specific fund rules (ELTIFS, Money Market Funds)

⇒ Ban on marketing non-regulated funds in the EU

2. Product design: MiFID II “product governance obligations”

- “Know-your-customer at group level”
- Interaction between product manufacturer and product distributor

⇒ Restrict marketing of products to clients outside the target market

C. Product Regulation - overview

3. Product intervention by the supervisor

- National measures ban the sale or marketing of certain complex products to retail clients
- EU: MiFIR and PRIIPs Regulation
 - Product intervention competences for EBA, ESMA and EIOPA
 - Product intervention competences for National Authorities under coordination of ESAs

Scope of application of product intervention measures

Deposits

- Competence of EBA for structured deposits
- Competence of MS under coordination of EBA

Financial instruments

MiFIR

- Competence of ESMA
- Competence of MS under coordination of ESMA

BUT: Competences only target Credit institutions and investment firms, not direct selling by fund managers (ESMA opinion)

Insurance products

PRIIPs

- Competence of EIOPA for IBIPs
- Competence of MS under coordination of EIPA

Conclusion

- Information
 - Focus on presentation and short standardised KIDs
 - Towards a more cross-sectoral approach to the financial sector
 - Still too limited?
- Conduct of business rules
 - Ever more detailed (“enhanced”)
 - Towards a more cross-sectoral approach to the financial sector?
 - In different sectoral directives...
 - Need for general consumer protection principles for the entire fin. Industry?
- Product Regulation
 - Towards a more “hands-on” approach

Conclusion

- Challenges:
 - Efficiently defining scope of application of rules
 - Closely knit 3 levels of investor protection into a strong investor protection scheme
 - E.g. product governance
 - E.g. PRIIPs – MiFID
 - Close cooperation between different sectoral ESA's and between the EU and nat. level