

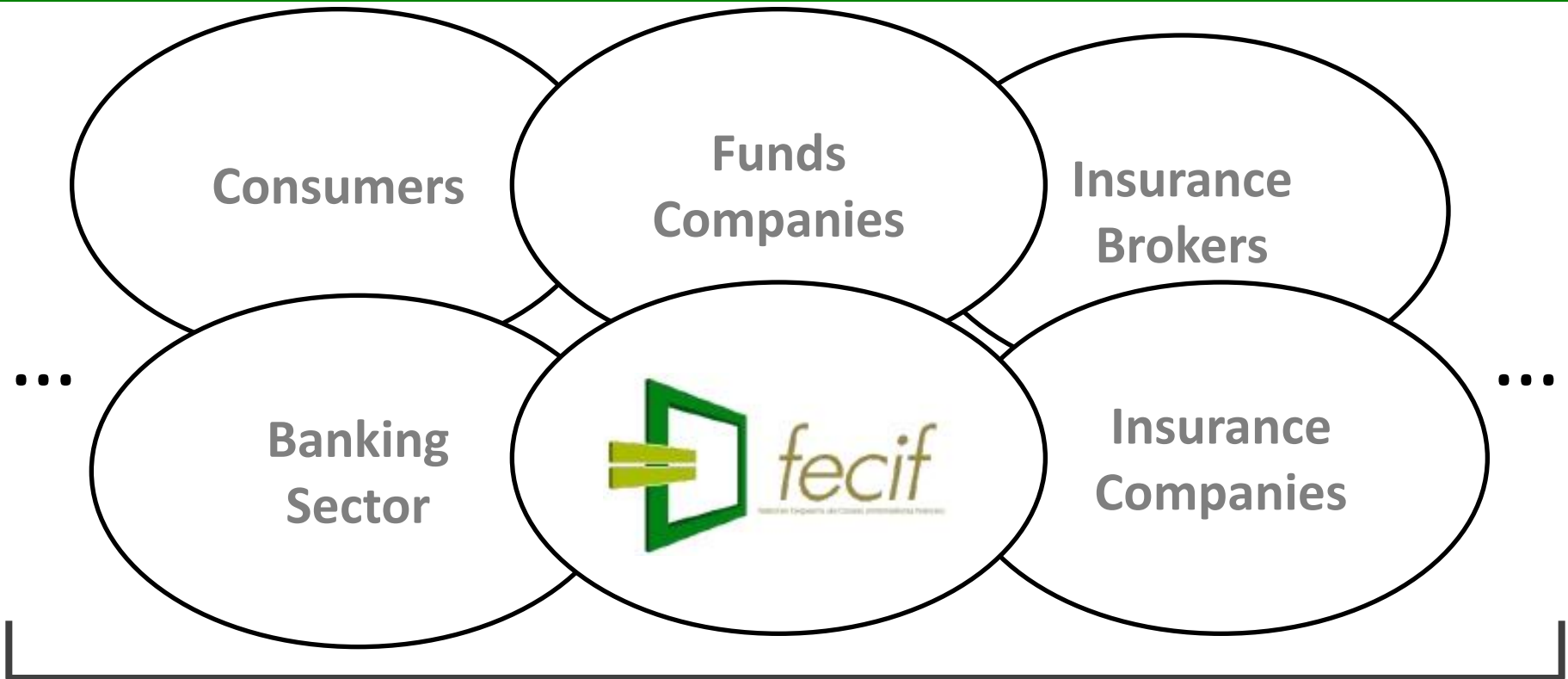


Suitability and Fiduciary Duty

Back to Common Sense

Johannes Muschik
FECIF Chairman

Representation of Financial Advisers and Intermediaries in Europe



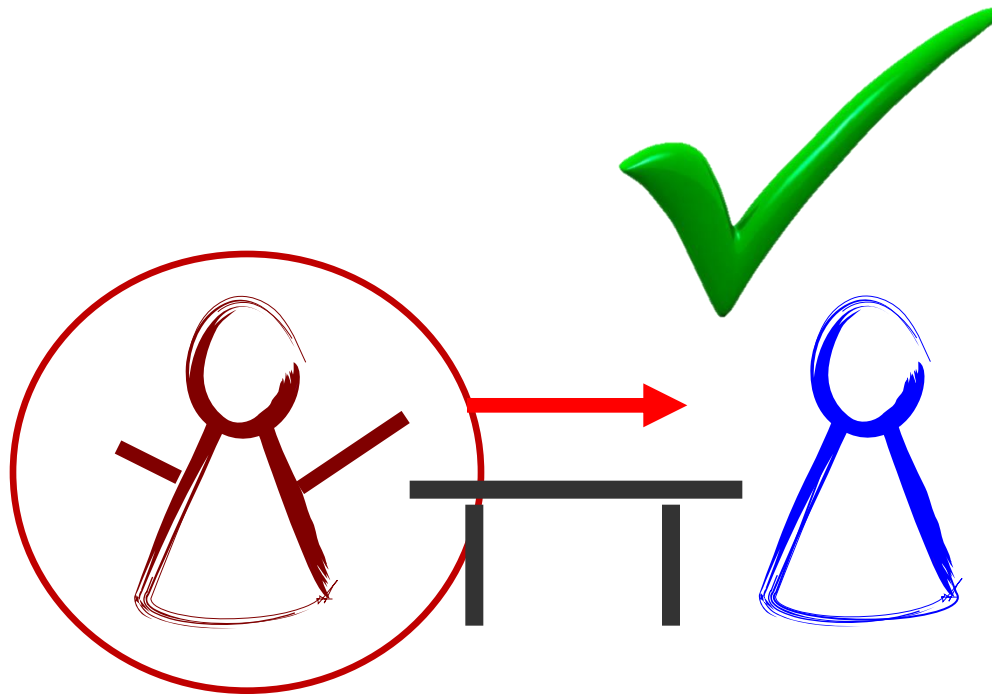
“Fiduciary”

- A person who holds a legal or ethical relationship of trust with one or more other parties.
- One person (“client”), in a position of vulnerability, justifiably vests confidence, good faith, reliance, and trust in another (“adviser”) whose aid, advice or protection is sought.
- Good conscience requires the fiduciary **to act at all times for the sole benefit and interest** of the one who trusts.

“Fiduciary Duty”

- The highest standard of care at either equity or law.
- A fiduciary is expected **to be extremely loyal** to the person to whom he owes the duty (“the principal”).
- There **must be no conflict of duty** between fiduciary and principal.
- The fiduciary **must not profit** from his position unless the principal consents.

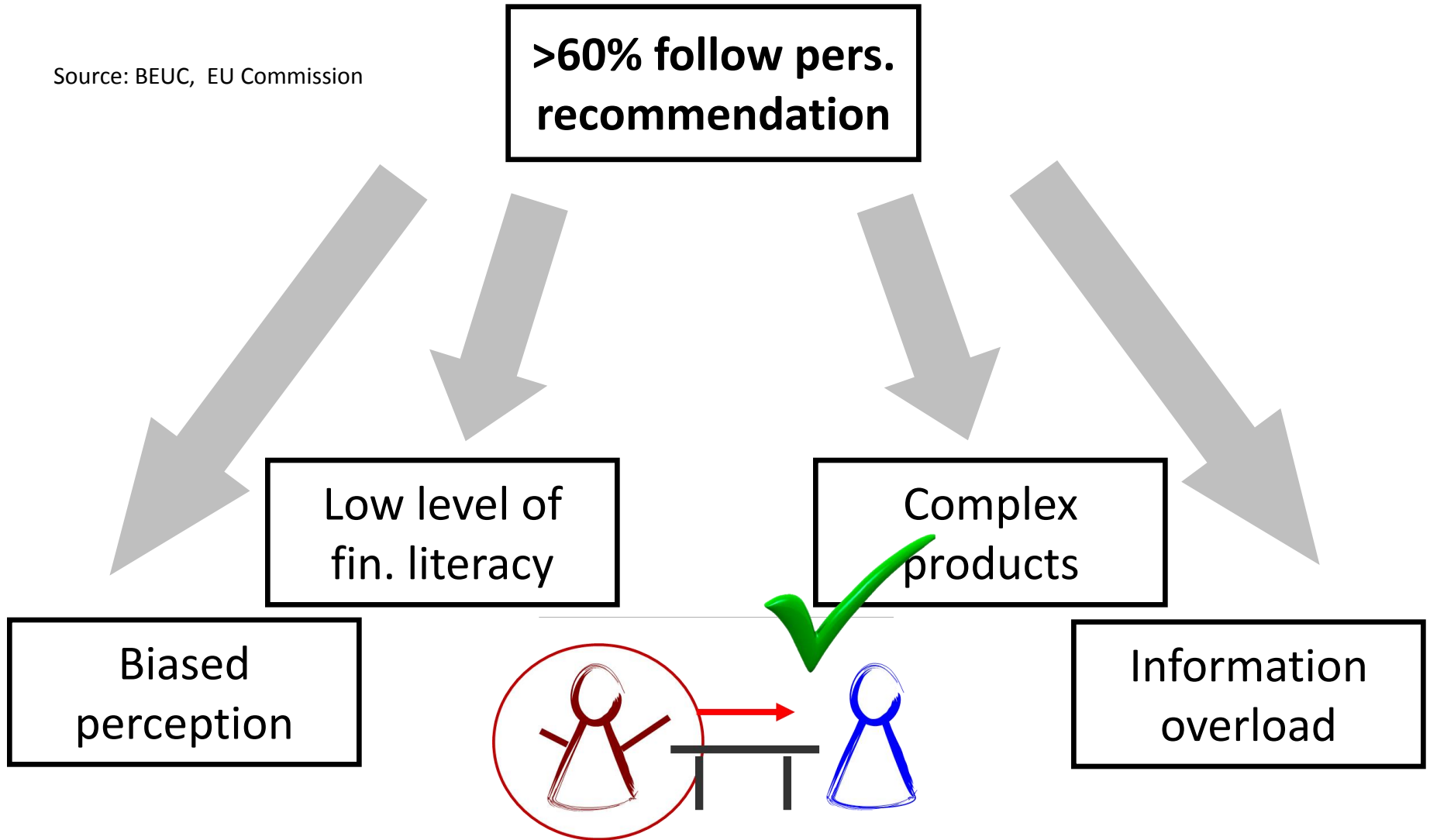
Clients consider advice from their fiduciaries to be suitable



- *Law requires from him/her a strict standard of behavior.*
- *A fiduciary ideally would not have a conflict of interest.*
- *His/her advice is appropriate to “my” purpose.*

(70) MiFID-2: “Increasing dependence of investors on personal recommendations”

Source: BEUC, EU Commission



Reality-Check?

Mis-selling on a grand scale

Lloyds Banking Group

Findings by numbers*

1.1m
products sold

692,000
customers

£2.3bn
total amount invested

* Jan 2010 to Mar 31 2012 for advisers at Lloyds TSB, Halifax and Bank of Scotland

Largest retail fines imposed by the FSA/FCA

Lloyds Banking Group



Dec 2013

£28.5m

Card Protection Plan



Nov 2012

£10.5m

HSBC Bank



Dec 2011

£10.5m

Swinton



Jul 2013

£7.4m

Alliance & Leicester



Oct 2008

£7m

Sesame



Jun 2013

£6m

Reasons

Serious failings in controls over sales incentive schemes

Mis-selling insurance products

Unsuitable sales of care bonds to elderly customers

Mis-selling insurance add-ons

Serious failings in its telephone sales of payment protection insurance

Unsuitable investment advice

Source: FCA/FSA
Photo: Reuters

Customers lost confidence



Emotions ran high



Source: www.expertpensionclaims.co.uk

Attorneys and litigation funders are at work

Are you owed £2,000?

Have you had a loan or credit card from any of these organisations?
Abbey, Alliance & Leicester, Barclays, Barclaycard, First Plus, Halifax, HSBC, Lloyds TSB, Natwest, Northern Rock, RBS, Welcome
or any other bank or lender?

If you did, there's a good chance they also sold you payment protection insurance and you may not even have known it.

You may be due £000's in compensation even if you no longer have the loan or card.

For a free assessment call us on

0800

(Lines open: 8-6pm Mon-Thurs, 8-5pm Fri)

to take our quick test visit

www. .co.uk

or text **60800**

(Texts charged at standard rates)

No upfront fees and no hassle

What have you got to lose?



New ways of marketing

Scamproof your savings

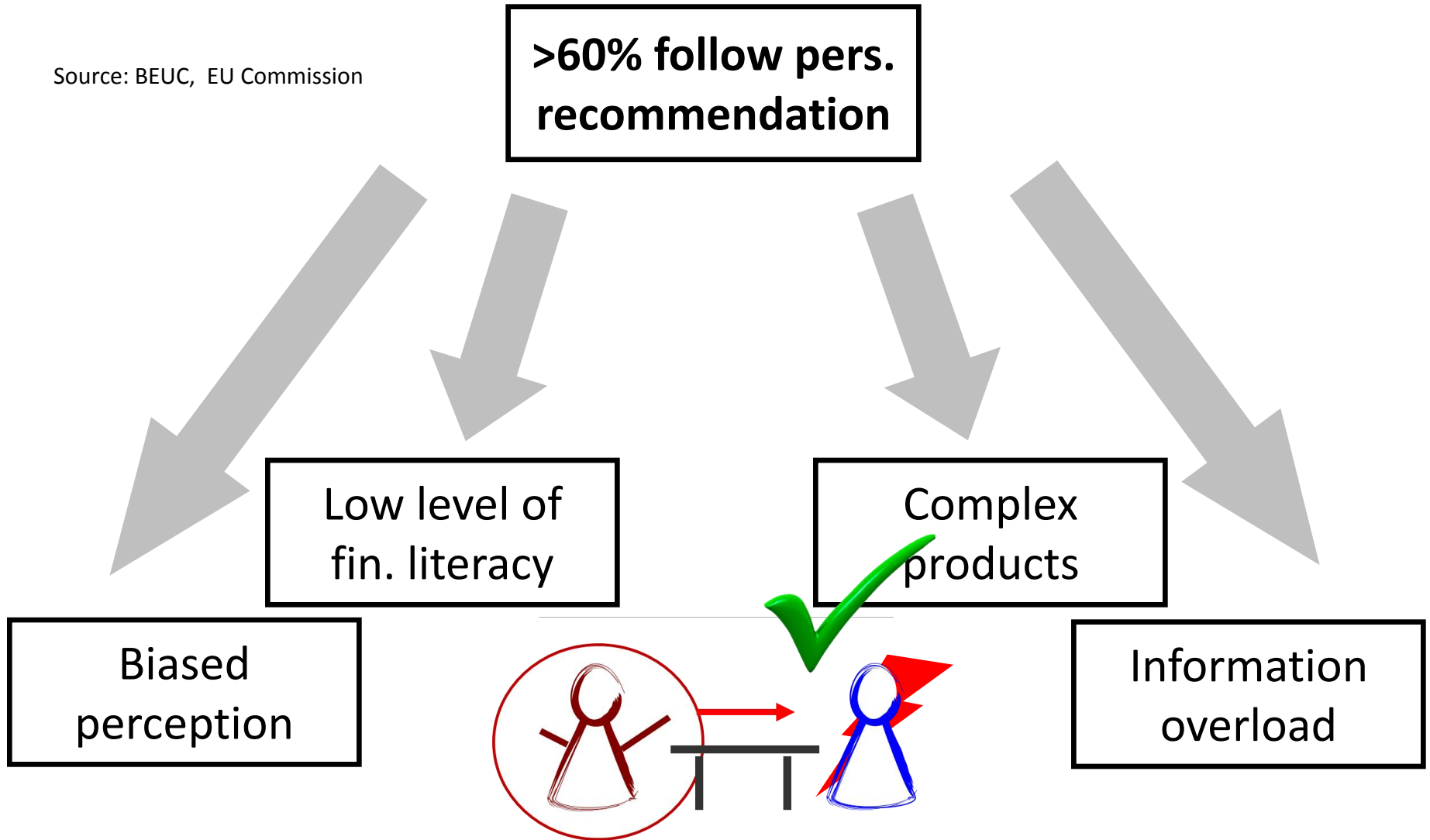


Pension scams.
Don't get stung.



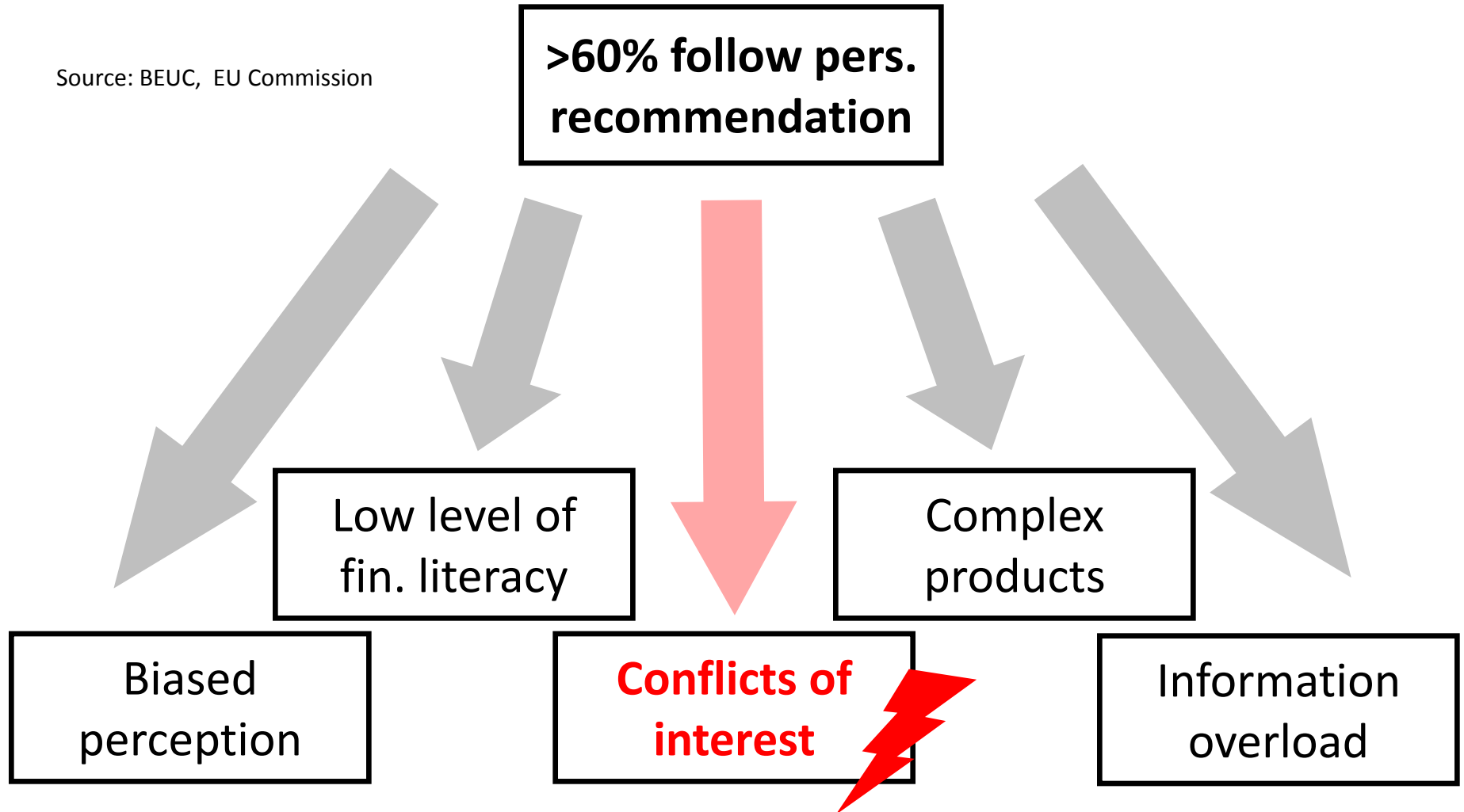
(70) MiFID-2: “Increasing dependence of investors on personal recommendations”

Source: BEUC, EU Commission

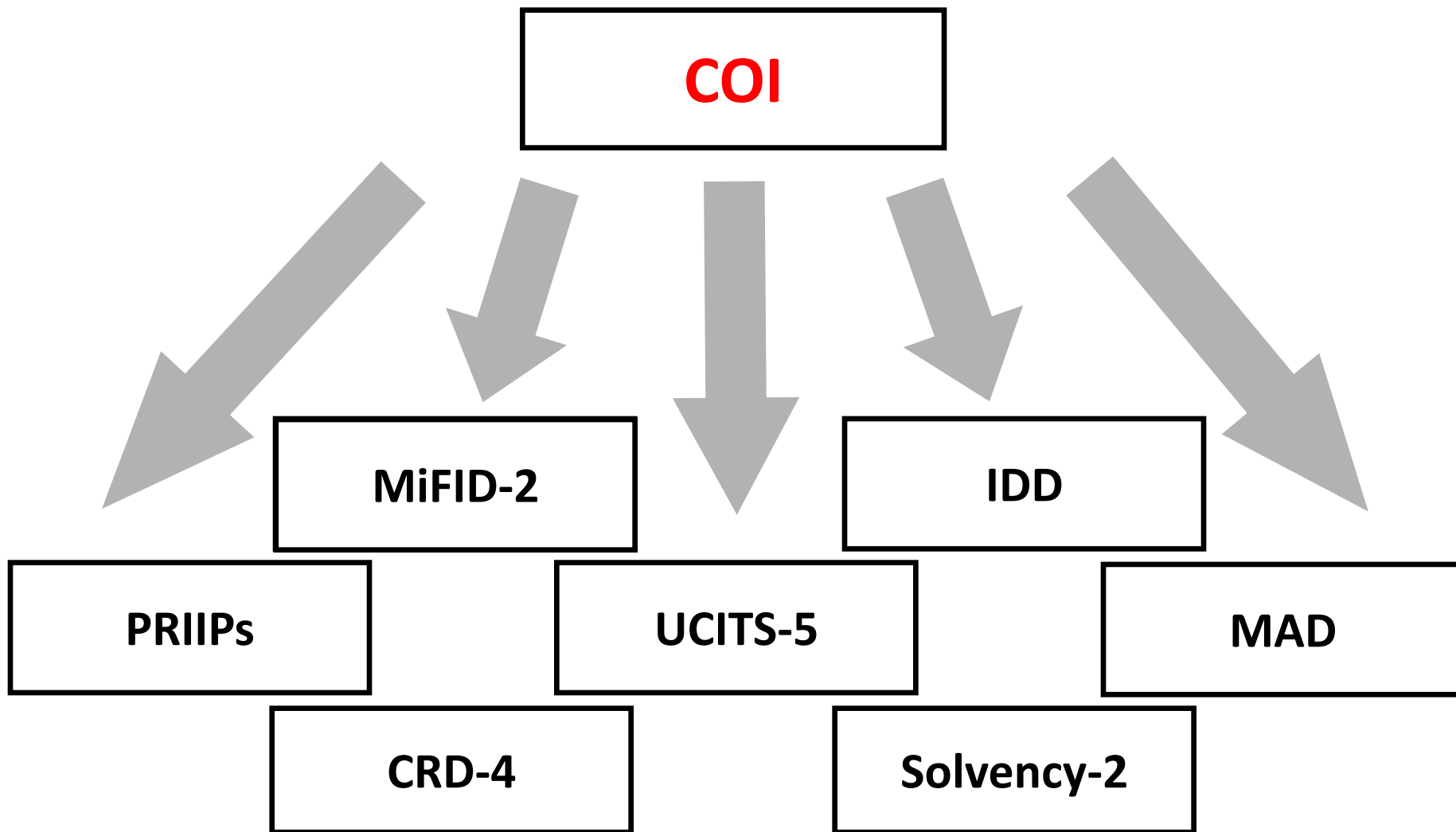


(70) MiFID-2: “Increasing dependence of investors on personal recommendations”

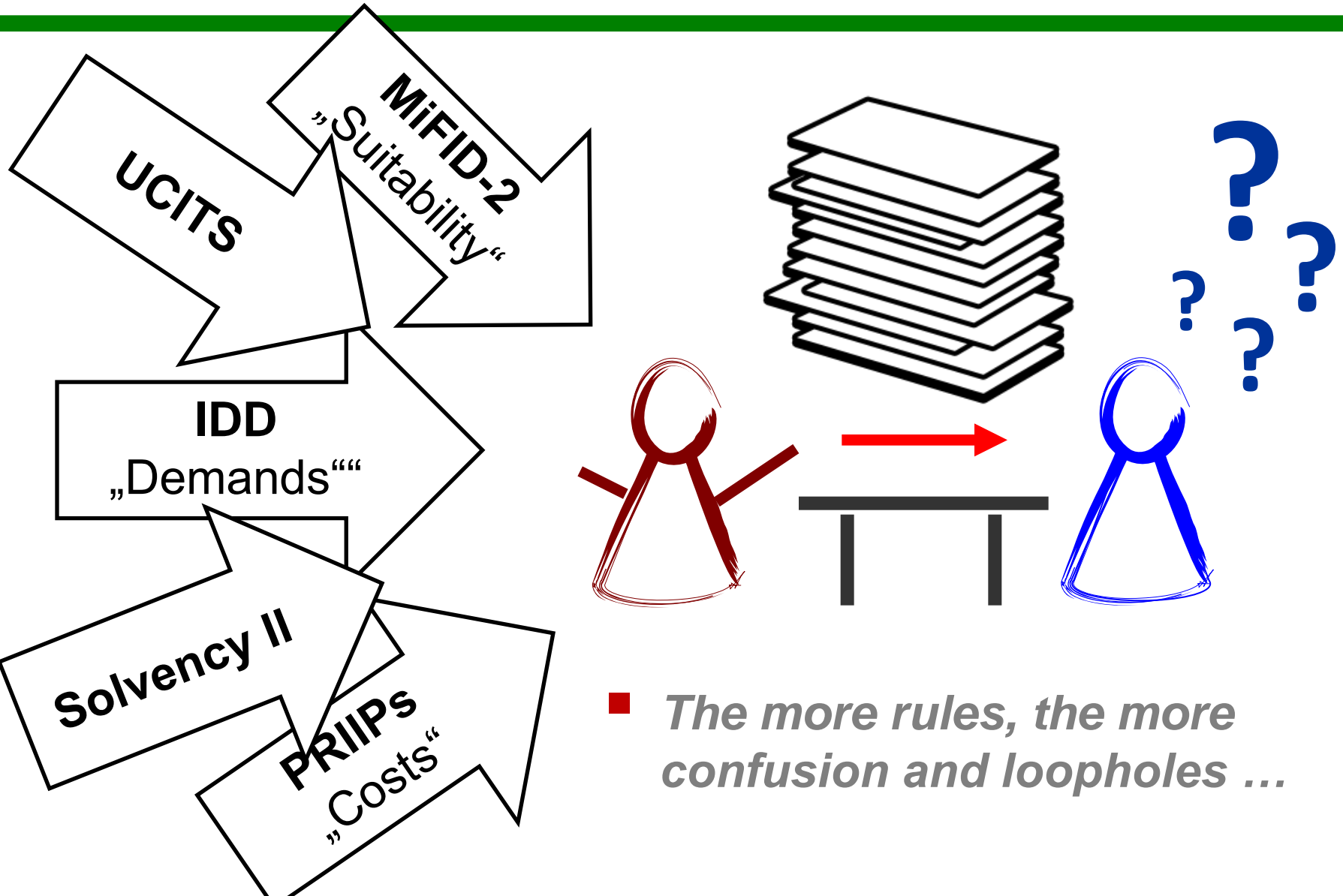
Source: BEUC, EU Commission



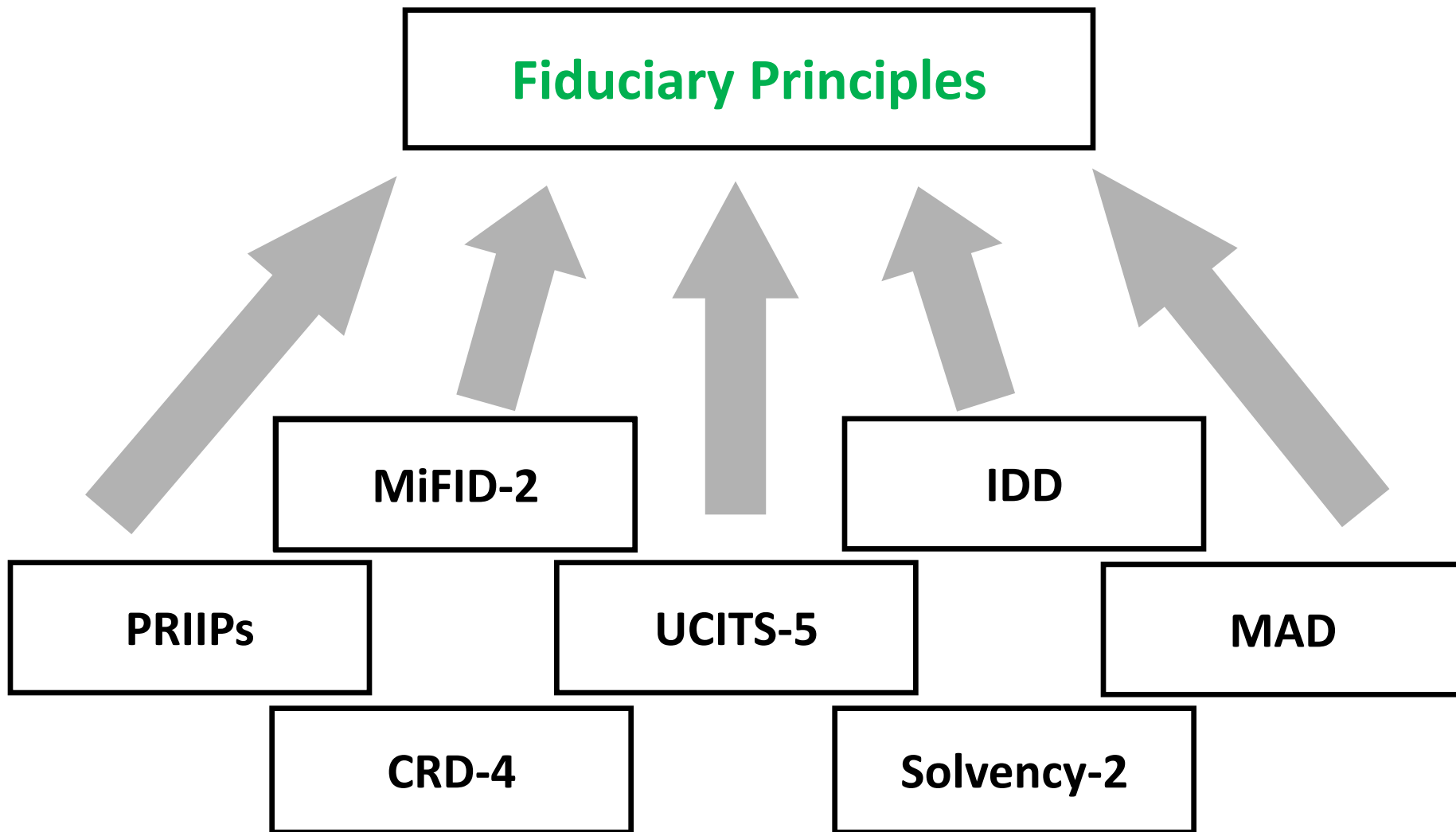
Europe's answer is excessive regulation of conflicts of interests



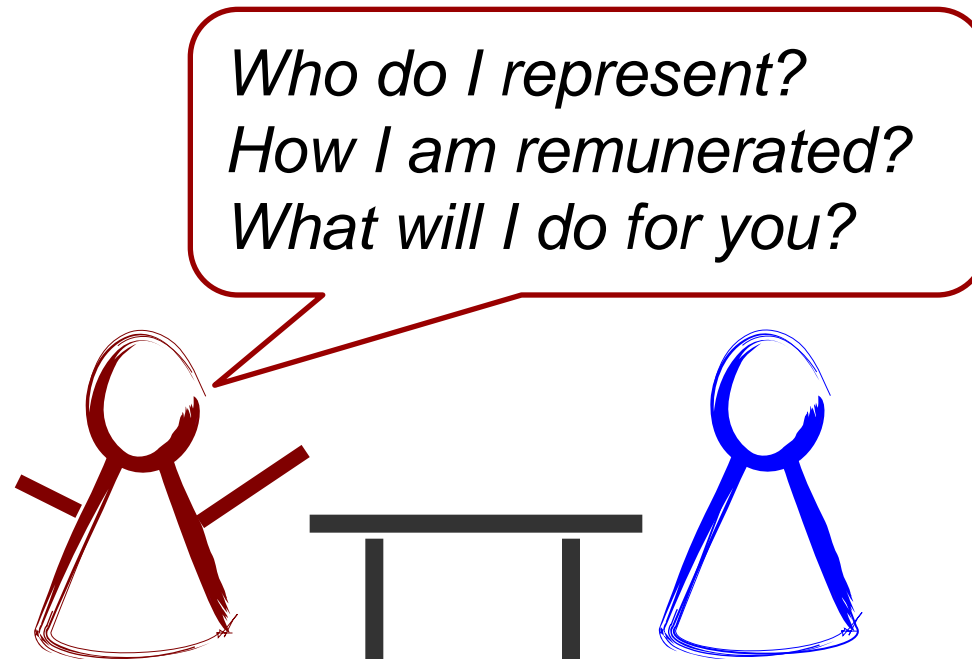
Directives, Regulations, Delegated Acts, Guidelines, Technical Standards ...



Back to common sense, back to workable principles!



Example IDD: “Mandatory Status Disclosure”



- Clients know from the very beginning what to expect from their fiduciary and how he/she is remunerated.
- This makes COIs more unlikely to happen.

Example PRIIPs: “Total Cost Disclosure”



- Customer knows about total costs BEFORE buying.
- Information includes cumulative effect on returns.



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