

**Comments Template on
the Consultation Paper on
Product Intervention Powers under the Regulation on Key Information
Documents for Packaged Retail and Insurance-Based Investment Products
(PRIIPs)**

**Deadline
27 February 2015
17:00 CET**

Name of Company:	Allianz SE	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Please insert a name in the box next to "Name of Company"; ⇒ <u>Do not change the numbering</u> in the column "reference"; ⇒ Leave the last column <u>empty</u>; ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>; ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP-14-064@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>Q1: Do you agree with the criteria and factors proposed?</p> <p>Q2: Are there any additional criteria and/or factors that you would suggest adding?</p> <p>Q3: Is there evidence that certain criteria do not apply under any circumstances to insurance-based investment products? Please elaborate.</p> <p>Q4: What would you estimate as the costs and benefits of the possible changes outlined in this Consultation?</p> <p>The questions listed here are those in the Consultation Paper on Product Intervention Powers under the Regulation on Key Information Documents for PRIIPs.</p>		

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Reference	Comment
General Comment	<p>Allianz appreciates the opportunity to comment on EIOPA’s Consultation Paper (CP) on Product Intervention Powers under the PRIIPs Regulation.</p> <p>Allianz agrees that circumstances may exist where a product intervention or ban is an appropriate measure to avoid greater harm for customers, the orderly functioning of financial markets and/or the stability of the financial system overall.</p> <p>From the wording it should be clear that the product intervention powers based on the PRIIPs Regulation are designed as emergency measures applied only in extraordinary circumstances and as a last resort. While this also applies to interventions by national competent authorities (NCAs), the characteristic as a measure of last resort needs to be made even clearer for interventions of EIOPA itself. Furthermore, all measures need to conform to the principles of proportionality and subsidiarity. This means that, fortunately, the need for actual interventions is (and should be) a very rare event.</p> <p>We perceive that the focus of the CP is on possible situations or issues which potentially could trigger a product intervention. While this may be valuable, we perceive that a clarification of the thresholds for criticality that an intervention would have to meet is even more important than a list of potential indicators. Surprisingly, very little to no effort seems to have gone into this important aspect.</p> <p>In particular, regarding</p> <ul style="list-style-type: none"> • Significant investor protection concerns: the trigger should be an observed (not just potential) systematic high volume damage to customers, not just a critical assessment by a supervisor (NCA or EIOPA) • Threat to the orderly functioning and integrity of financial markets: any threat should be

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with respect to the functioning of whole market segments or a substantial share of all intermediaries or manufacturers. In other words, product concerns regarding one or a few companies are not sufficient to ban a whole product type or category based on these rules. In particular, we would like to point out that there should be only very few circumstances, where insurance-based investment products (= insurance PRIIPs) meet these criteria.

- **Threat to the stability of the whole or part of the financial system:** an intervention based on this criterion would clearly require systemic (macro-prudential) threats, which could potentially threaten the whole financial system, e.g. by contagion or interconnectedness.

We are concerned, that the extensive (but still non-exhaustive) list of possible sources of issues mentioned in the CP could give the (possibly wrong) impression about the intention to extend the product intervention powers beyond its intended and codified level. We would like to highlight, that such extension of product intervention powers under the PRIIPs Regulation beyond this clearly defined scope would be not be covered by the mandate, and therefore be questionable, misguided and unacceptable. In other words: Any product intervention based on the PRIIPs Regulation has to conform to the very high thresholds discussed above.

Interpreted even further, some passages could be misunderstood to aim at the implementation of a nucleus of a product pre-approval regime, e.g. the call for sufficient flexibility and a highlighting of the non-exhaustive character of the criteria list in section 1.11. For clarification it should be noted that the **product intervention powers** granted under the PRIIPs Regulation should **in no case** be used to implement a (de facto) **pre-approval regime** for PRIIPs products, **neither directly or indirectly** (e.g. by threat of interventions in case of non-compliance with proposed rules).

Most **NCA**s should also already be **sufficiently empowered** to recognize and address most serious issues, including those addressed by the PRIIPs product intervention powers. This further supports the notion than the need for an ESA / EIOPA product intervention should be an

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	extremely rare event.	
Q1	<p>Generally, products problems may arise from different sources. While this may justify a general and / or broad list of potential trigger criteria, such a list could give the misguided impression that any violation of the criteria would trigger a mandate for an intervention by a NCA or ESA, even if the event is far below the critical threshold for a real crisis as defined in the Regulation. As stated in the General Comments, product interventions should in effect be exceptional events used only as a last resort, not to define general guardrails for product design.</p> <p>We would therefore suggest to put more effort into clarifying an adequately high intervention threshold as opposed to extending the breadth or depth of the already very long list of potential problem sources.</p> <p>Against this backdrop, the following specific aspects should be considered with respect to the criteria proposed:</p> <p>In our understanding, the EIOPA mandate in Art. 16 (8) of the PRIIPs Regulation only covers interventions with respect to the product itself. By contrast, the criteria listed in the CP also include indicators for activities and practices, i.e. conduct regulation, especially in the sections 1.16.1, 1.16.4, 1.16.5, and 1.16.9. We doubt these aspects are covered by the mandate in Art. 16 and should (if necessary) be relegated to the appropriate act, namely IMD2/IDD.</p> <p>Complexity (see section 1.16.1) is not problematic per se, and in many cases is even beneficial, in particular where a certain complexity is needed to deliver better or more suitable protection (e.g. biometric risk transfer) tailored to the customers' need. Furthermore, it is not clear, how a lack of transparency regarding costs (referred to in section 1.16.1(b)) could lead to a product intervention based on the rules under this regime, especially since it can be assumed, that the KID design rules would clearly specify the necessary cost disclosure.</p>	

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Transparency (see section 1.16.4): It is not clear, how intransparency per se should be a sufficiently strong indicator for a product intervention under these rules, even if a certain transparency with respect to a product’s core features is desirable. In addition, transparency has different dimensions to be adequately considered. In particular, different structures in product regulation of different life insurance products by design lead to different degrees of transparency with respect to these dimensions. For example, some life insurance products provide beneficial commitments (and hence transparency) about long-term benefits but less transparency about the composition of the corresponding assets backing these benefits at any point in time. Conversely, unit-linked products by design provide more transparency about the composition of the assets at any time but no or less commitments or transparency about ultimate payouts. For an adequate assessment, all relevant dimensions should be adequately considered. Similarly, the implied call for full transparency could mask the necessity to balance certain desirable properties, e.g. completeness vs. comprehensibility / relevance of disclosure: For a customer it may be more relevant to have transparency about the effective guarantees included in an insurance-based investment product than in the detailed composition of the assets used to achieve these goals (as long as the solvency of provider is ensured by suitable prudential regulation).

Disparity between expected return and risk of loss (see section 1.16.6) and pricing and costs (section 1.16.8): the wording used in these sections could be misunderstood or potentially misused as a basis for supervision or prescriptions for permissible pricing ranges. Specifically, rule 1.16.8 (b) should not be conceived as a “quality enhancement rule” for charges (as included in MiFID II for commissions).

Innovation (section 1.16.9): While there may be problematic innovations, per se it is neither sufficient nor problematic. At any rate, innovation is indispensable to tailor products to changing customer needs, especially in dynamically changing environments (see at least partial concession to this point in section 1.12 of the CP). Seen from this angle, innovation is a key to more variety and choice thereby acting as a catalyst to promote beneficial competition resulting in higher fit with

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	<p>as well as adaptation to customer needs at lower cost.</p> <p>Selling practices (section 1.16.10): The rules implemented or proposed here should neither contradict nor materially extend the upcoming IMD2/IDD rules generally addressing similar issues.</p>	
Q2	No, see Q1.	
Q3	<p>Reasons for the inclusion of pension savings in the list (see section 1.16.3 (d)) is not clear, since occupational and private pensions are excluded from the scope of the PRIIPs Regulation.</p> <p>Also, in our understanding the EIOPA mandate in Art. 16 (8) of the PRIIPs Regulation only covers interventions with respect to the product itself. By contrast, the criteria listed in the CP also include indicators for activities and practices, i.e. conduct regulation, especially in the sections 1.16.1, 1.16.4, 1.16.5, and 1.16.9. We doubt these aspects are covered by the mandate in Art. 16 and should (if necessary) be relegated to the appropriate act, namely IMD2/IDD.</p>	
Q4	<p>The costs and benefits depend very much on the exact application. The costs can be expected to be in an acceptable range if it clarified that</p> <ul style="list-style-type: none"> • the materiality threshold for a product intervention is set adequately high (as outlined in the General Comments) so that product interventions are limited to truly exceptional situations and • no additional explicit controls, reporting, and compliance requirements have to be implemented to comply with these rules. <p>In any case, it should be noted that any additional cost burden would ultimately have to be paid for by the customers.</p>	