

**Comments Template on
 Consultation Paper on the proposal for Guidelines under the Insurance
 Distribution Directive on insurance-based investment products that
 incorporate a structure which makes it difficult for the customer to
 understand the risks involved**

**Deadline
 28 April 2017
 18:00 CET**

Name of Company:	Allianz SE	
Disclosure of comments:	EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential. Please indicate if your comments on this CP should be treated as confidential, by deleting the word Public in the column to the right and by inserting the word Confidential.	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ 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-17-001@eiopa.europa.eu.</p> <p>Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the questions refers to the Consultation Paper on the proposal for Guidelines under the Insurance Distribution Directive on insurance-based investment products that incorporate a structure which makes it difficult for the customer to understand the risks involved</p>		
Reference	Comment	
General Comments	We agree with the regulatory intent to provide customers with transparent and good to understand product information that enables for taking well informed decisions. In	

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this regard it is consequent to develop criteria to differentiate between non-complex products that are accessible for self informed customers and those products that deserve financial advice to ensure the intended well informed decision making. The guiding principle to assess qualification of non-complex products for execution-only sale and placing the comprehension alert on the KID should therefore be the customer risk perspective: "what does the customer need to understand to take a well informed decision"?.

The criteria proposed by EIOPA to define "other non-complex" IBIPs for the purposes of execution-only sales are too wide and risk excluding unintendedly from the scope of "execution only" sales products that, from a customer risk perspective, are not difficult to understand nor expose the customer to higher risk than non-complex products under MiFID II.

Significant product features that are necessary to be understood with view to potential risk exposure from customer perspective are often well understandable, namely when it comes to the protective effects of guarantees or potential economic benefit like participation in annual surplus.

1. IBIPs in perspective with UCITS investments

The criteria proposed suggest that investments in insurance general accounts, in which investors do not invest directly, should be regarded as more complex than UCITS funds. If the investment exposure in general accounts is guaranteed by minimum value at maturity, this should qualify as not difficult to understand from the customer's perspective, irrespective of (complex) underlying target investment strategy. Similarly participation in profit sharing mechanism does not constitute risk exposure for the customer but adds potential customer benefit.

Furthermore the surrender risk exposure in IBIPs should be assessed against the same principles as UCITS investments under MiFID II where a potential negative return does not hinder their qualification as non-complex product. Accordingly, an IBIP that ensures a transparent surrender value, including charges, over time should qualify as "non-complex".

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2. Implications of complexity label

The qualification of an IBIP as complex is will not only govern the “execution-only” sale but also trigger the mandatory comprehension alert to be placed on the Key Information Document governed by PRIIPs RTS. Therefore the criteria proposed in the context of IDD must be rigorously assessed in view of the guiding principle of the customer risk perspective. However, as currently drafted, the vast majority of IBIP being marketed by financial advisor (who is mandated and qualified to well explain the products) will show the comprehension alert. This alert will easily be understood by consumers as “risky product” and preventing them from investing in long term savings products with (technically complex) guarantee mechanisms that are providing protection against investment risk that are not available in pure UCITs investments.

We note that the wording of the Technical Advice is dependent on the comments received during the public consultation of the Guidelines and on that basis urge an holistic re-assessment of the criteria proposed both in Level 2 and in potential Guidelines.

- A consistent approach between Level 2 and Level 3 regulation is currently not ensured. We strongly encourage to review Level 2 in view of the Technical Advice p. 76/ Nr. 16 and the outcome of this Consultation.
- EIOPA states that the scope and objectives of the proposed guidelines were on facilitating “*the identification of types of insurance-based investment products, or product features within insurance-based investment products, that incorporate structure which makes it difficult for the customer to **understand the risks involved** and which are therefore complex and not fit for distribution via execution-only*”. A large part of IBIPs includes underlying investment strategies and instruments, intrinsic to the nature of insurance, that are technically difficult for the customers to understand in view of the underlying investment strategy. However, we do not agree with EIOPAs assessment that IBIPs are “*often complicated and difficult to understand for consumers*” from the perspective of what the customer needs to understand in order to be able to take a well informed decision. The product features that are necessary to be

Question 1

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	<p>understood with view to potential risk exposure from customer perspective are often well understandable, namely when it comes to the protective effects of guarantees or potential economic benefit like participation in annual surplus.</p> <ul style="list-style-type: none"> • The level playing field between UCITS and insurance products is jeopardised. The criteria proposed suggest that investments in insurance general accounts, in which investors do not invest directly, should be regarded as more complex than UCITS funds. If the investment exposure in general accounts is guaranteed by minimum value at maturity, this should qualify as not difficult to understand from the customer's perspective, irrespective of (complex) underlying target investment strategy. Similarly participation in profit sharing mechanism does not constitute risk exposure for the customer but adds potential customer benefit. Furthermore the surrender risk exposure in IBIPs should be assessed against the same principles as UCITS investments under MiFID II where a potential negative return does not hinder their qualification as non-complex product. Accordingly, an IBIP that ensures a transparent surrender value, including charges, over time should qualify as "non-complex". • The qualification of an IBIP as complex will not only govern the "execution-only" sale but also trigger the mandatory comprehension alert to be placed on the Key Information Document governed by PRIIPs RTS. Therefore the criteria proposed in the context of IDD must be rigorously assessed in view of the guiding principle of the customer risk perspective. However, as currently drafted, the vast majority of IBIP being marketed by financial advisor (who is mandated and qualified to well explain the products) will show the comprehension alert. This alert will easily be understood by consumers as warning on a "risky product" and preventing them from investing in long term savings products with guarantee mechanisms that are providing protection against investment risk that are not available in pure UCITS investments. • Understood and very well-known products established in many European insurance markets should not unnecessarily be labelled complex. 	
Question 2	<ul style="list-style-type: none"> • We see rising importance of execution only acquisition of financial products for the digital native generation due to online sales channel. Although advice can 	

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	<p>be provided online, many online customers are used to easy and fast solutions and might not always be interested in a full suitability assessment.</p> <ul style="list-style-type: none"> • Complexity label has implication above and beyond execution only <ul style="list-style-type: none"> ○ It triggers the PRIIP comprehension alert ○ Since the term complexity is often used in everyday language this will often be misunderstood. Consumers or even intermediaries might mistake the complexity label as indicating a more risky product – while the regulatory intent is to preserve these products on advisory sales channels. ○ It is a term also often used in legal texts. Even the EIOPA technical advice for IDD contains the word complexity in several instances where non-IBIPs are concerned. 	
Question 3		
Question 4	<ul style="list-style-type: none"> • Guideline 1 basically just repeats and consolidates rules from levels 1 and 2. 	
Question 5	<ul style="list-style-type: none"> • EIOPA adds additional criteria going beyond the TA, whereas level 3 guidelines should just explain and refine level 2 and not add to it. • EIOPA should only lay down high level principles based on consumer understanding. E.g. for costs it is not important how they are calculated exactly. It should be only important that they are disclosed in a transparent way, i.e. via the PRIIP costs indicators. This should be solved on the same level as for UCITS funds which do not have detailed requirements for cost calculations but for costs disclosure (ongoing charge). • There should be enough leeway for NCAs to adapt the principles to be compatible with national legislation for consumer protection, e.g. mandatory profit sharing should not be seen a risky or detrimental but adding customer benefit: this is not difficult for the customer to understand. • Actuarial prudence requires appropriate surrender fees which take the present value of the underlying assets into account otherwise long term investments are not feasible. It should only be required that surrender fees are made transparent, instead of understanding the calculation. 	

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	<ul style="list-style-type: none"> Requirements are not consistently applied, e.g. for complex IBIPs understandability of technical calculation for consumer is taken as a condition – whereas e.g. UCITS funds do not satisfy all criteria of guideline 2. E.g. average customer cannot understand UCITS charges in detail, average customer cannot understand how UCITS return is calculated. In view of a level playing field we therefore recommend to revert to the consistent approach that a customer should only need to understand the potential benefits (or risk) of a product feature. Mandatory profit sharing might automatically render every product complex as the average customer does not understand the legal requirements of its calculation. However it should be only relevant whether the result is transparent not a calculation. Even for a simple banking account it is not transparent how the current interest rate is determined – yet nobody think a savings account is complex. 	
Question 6	<ul style="list-style-type: none"> EIOPA adds additional criteria in the draft Guidelines, compared to the TA, while level 3 guidelines should just explain and refine level 2 and not add to it. Namely Guideline 2 is in many instances going beyond Level 1 and Level 2 texts with the detrimental effect to create an unlevel playing field to UCITS and banking products. The wording of the Technical Advice in p. 76, 77 is dependent on the comments received during this public consultation of the Guidelines. On that basis we urge a holistic re-assessment of the criteria proposed both in Level 2 and in potential Guidelines. 	
Question 7		
Question 8		
Question 9	<ul style="list-style-type: none"> The approach proposed by EIOPA risks the effect, that self-informed customers interested in execution only / non-advised products will not have access to (digitized) insurance IBIP offering but only to MiFID products (UCITS), which we interpret as unintended consequence. Financial advisors will find themselves in a non-competed market position in 	

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the field of distribution of IBIPs. We fear that such lack of competition is expected to generate higher distribution costs and therefore higher prices for the customer.

- By excluding the vast majority of IBIPs from the scope of execution-only, EIOPA risks withdrawing the incentives to reducing product complexity in product development processes. Such a regulatory limitation jeopardizes the development of solutions in a digital economy at a moment when online distribution channels are increasingly sought, not only via execution only sales but also via robot advice. In particular, access to insurance should be ensured, in the long term, for digital customers who are financially literate and do not need to hold a physical meeting with a financial adviser to buy an insurance contract. Regulation is expected to leave room to adequate flexibility to adopt the customer preferences by avoiding disproportionate administrative burdens.