	Comments Template on Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive	Deadline 3 October 2016 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
	Please follow the following instructions for filling in the template: ⇨ Do **not** change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇨ Leave the last column empty. ⇨ Please fill in your comment in the relevant row. If you have no comment on a paragraph or a cell, keep the row empty. ⇨ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. **Please send the completed template, in Word Format, to CP-16-006@eiopa.europa.eu.** **Our IT tool does not allow processing of any other formats.** The numbering of the questions refers to the Consultation Paper on Technical Advice on possible delegated acts concerning the Insurance Distribution Directive	
Reference	**Comment**	
General Comment	• Allianz welcomes the opportunity to comment on IDD Level 2 proposals. • Allianz shares the general intent of IDD incl. Level 2 proposals to promote consumer protection and needs-based distribution of insurence products • Based on Art. 290 TFEU, Level 2 delegated acts need to be based on the Level 1 texts and must not exceed the material scope of the Level 1 text. • Based on this principle, several of the proposals need further consideration, in	

	particular in the following areas ○ Product Oversight and governance (POG) rules: split of responsibilities and liability between manufacturer and distributor, definition of target market and open-ended requirements based on many undefined legal terms. While the goals are appropriate and acceptable, appropriate flexibility needs to be be granted to undertakings in defining individual operating solutions which may take many forms. ○ Conflicts of interest (COI) rules for insurance-based investment products (IBIPs): may lead to certain open-ended requirements based on many undefined legal terms. In particular, it should be clarified that general COI rules should not be used to introduce more restrictive rules on inducements than thosewhich are covered under the specific rules for inducements ○ inducements for IBIPs: the simplistic de facto black list approach as proposed in the consultation paper is not covered by Level 1 and would lead to unjustified restrictions and discrimination of commission-based sales models while not giving appropriate room for risk mitigation and holistic assessment. ○ advice (suitability and appropriateness) for IBIPs: limit requirements to areas with clear benefits for customers	
Question 1	**What would you estimate as the costs and benefits of the possible changes outlined in this Consultation? Where possible, please provide estimates of one-off and ongoing costs of change, in euros and relative to your turnover as relevant. If you have evidence on potential benefits of the possible changes, please consider both the short and longer term. As far as possible, please link the costs and benefits you identify to the possible changes that would drive these.** • The cost for the implementation of the changes proposed in the regulation put forward will be substantial. It is difficult to quantify, in particular, since many principles and rules leave some room in the specification in the national transpositions. • The benefits relate mostly to the intent of the IDD,i.e. the design, transparency about sale and advice on insurance products, with a special focus on insurance-	

	based investment products (IBIPs). • It should be noted that any cost imposed by additional rules – both for implementation as well as for ongoing compliance and related internal administrative efforts - will be priced in the products and ultimately borne by the customers. This calls for a careful assessment of costs and customer benefits. Care should be taken not to jeopardize the effective offerings available to customers, especially in the lower-income end of the market. • While we are unable to provide concrete euro estimates at this point in time, it should be understood that the running cost for the newly established concept of POG, next to additional reporting obligations based on last century's paper by default obligation create substantial additional regulatory costs of insurance products.	
Question 2	**Do you agree that the policy proposals above provide sufficient detail on product oversight and governance arrangements?** • The proposals in several aspects are even overly detailed and restrictive, e.g. with respect to o definition of "detriment" not provided in Level 1: Allianz does not share the view that any potential adverse effect on the customer should be considered a detriment but that this should be limited to objectively unfair developments (sec. 36 (b) 37, p. 18) that are causing a concrete and evident harm to the customer. Insurance products are typically designed to transfer risks from customers to the insurer, i.e. they are explicitly designed to deflect harm from customers. This should lead to only very few cases which may be in effect considered detrimental to customers, especially on the abstract level required for any general needs assessment performed by the manufacturer. o responsibility of manufacturer for outcomes (see e.g. sec. 20, p. 16, bullet 2): manufacturer should not bear responsibility for aspects which are beyond its control, e.g. because the distributor is independent (e.g. in case of brokers) and monitoring activities (see DTA 22, p. 23) are limited. o Product testing: a qualitative high standard product testing concept should allow manufacturers to build a multi-dimensional and comprehensive approach for which the elements listed in sec. 31 – 34 only provide an	

indicative list. None of these elements should be considered in isolation, namely there should be no strict limitation on product design (sec. 31/32, p. 17) or use of claims ratio as the primary indicator (sec. 34, p. 18) for product approval. For example, in the case of natural catastrophe risks (e.g. earthquake covers), the claims ratio typically is low or even zero in most years, but the product still provides valuable cover. In addition, valuable service components for the customer are not formally part of the claims ratio, but form part of the expense ratio. This should not be neglected.

- target market definition: Allianz agrees that the clear definition of a target market is in line with good practices of product design. Any implementation of the target market concept in product design has to take into account, that the target market definition has to address customer profile and needs in the abstract and cannot be substituted for the demands and needs test at the point of sale (which needs to be performed by the distributor). This understanding should be clarified in the DTA. The very restrictive approach proposed in the Consultation Paper, in particular with respect to restrictive rules on sales outside the target market (sec. 52/53, p. 20/21), may lead to difficult trade-offs between
  - effectively cutting off suitable customers (in case of a narrow definition of the target market),
  - inclusion of many unsuitable customers within the formal definition of the target market (in case of a very broad definition of the target market)
  - excessively granular definitions of the target market in multiple dimensions which are difficult to identify and handle (in case of attempts to become as granular in the target market definition at technically possible), see also Q7 on granularity of target market.

  In our view, this problem cannot be resolved by more requirements on or higher granularity of the definition of the target market. Instead, the abstract nature of the target market definition should be acknowledged and an element of proportionality should enter the required level of granularity of the target market. In particular, it should be clarified in the DTA that the

manufacturer should reach a reasonable level of granularity while the primary responsibility for meeting the individual customer needs should remain with the distributor at the point of sale.
Additional remarks:
- For IBIP products the granularity of the target market description should not be required to exceed the two dimensions explicitly required in Art. 8 (3) PRIIP Regulation, i.e. ability to bear losses and investment horizon.
- For most non-life products the target market definitition will be aligned very closely with the risk coverage of the product. An obligation to provide a very detailed definition of a negative target market (i.e. identifying non-target customers) might put a disproportionate burden on the manufacturer in many cases.

- product testing: scenario analyses are unclear for many product categories (e.g. many non-life products, where proposed criteria in sec. 34, p. 18 are overly simplistic, in particular claims ratio and overlap of coverage as well as possible update to future needs. A qualitative high standard product testing concept should allow manufacturers to build a multi-dimensional and comprehensive approach for which the elements listed in sec 31 – 34 only provide an indicative list. None of these elements should be considered in isolation, namely there should be no strict limitation on product design (sec. 31/32, p. 17) or use of claims ratio as the primary indicator (sec. 34, p. 18) for product approval.For example, claims ratios are low for many important low frequency products (e.g. earthquake insurance). Furthermore, essential service elements may not be included in the claims ratio but be part of the expense ratio. In addition, some (limited) overlap of coverage should not be considered problematic per se, because such restrictive view could in effect block any valuable more comprehensive coverages for customers. Furthermore, an automatic update of the coverage for future needs should not be generally expected (as could be read into sec. 34, p. 18). These aspects should be clarified and a holistic proportionate view should be permissible.
- notification to customers (DTA 17, p. 23) probably would prove

	unnecessary and impractical and also could in some cases trigger erratic or even irrational switching behaviour of customers which may in effect be detrimental to interests of individual customers and the collective of insureds. ○ distribution channels (DTA 18, 22, 23, p. 23): The scope of obligations (and liability) shifted to the product manufacturer may prove disproportionate in many cases. In particular, for independent distributors manufacturers typically lack powers and instruments for close supervision and intervention. Rather than extending (often duplicating) the responsibility (and liability) for the conduct of the (independent) distributor at the point of sale to the manufacturer, it should be made clear that the primary responsibility for this conduct remains with the distributor. The obligations (and liability) of the manufacturer should be limited to aspects, which are within its sphere of influence (e.g., defining a target market for the product). Therefore, in particular DTA 24 (p. 24) should be modified to reflect this point. ○ Remedial action (DTA 16, 17, p. 23): it should be clarified that POG rules only apply to products which are open for sale (not all contracts in force). In particular, it should be clarified that POG rules do not require the adaptation (or cancellation) of existing contracts, which is governed by national contract law. In addition, the proposed notification of remedial action to customers (DTA 17, p. 23) should be deleted, since it is already covered by the requirement to "take appropriate measures" and under some adverse circumstances may jeopardize the collective of the insureds by triggering an unnecessary flight response by customers. ○ With view to policy proposals for insurance distributors it should be noted that the requirements may not be equally applicable to all types of distributors, especially independent distributors.	
Question 3	**Are there any further arrangements, except those outlined below, which you would consider necessary and important?** • Yes, adequate clarification should be provided, how manufacturers are allowed to provide access to insurance / risk coverage for self directed, digital customers who might be unwilling to disclose numerous details of their private background	

	information which is usually collected in an advisory context since they deem themselves financially literal and well self-informed. Taking into account the speed of technical revolution as well as change of attitude in the jounger generation of customers the IDD should anticipate appropriate flexibility to adopt to customer preferences and needs by avoiding disproportionate administrative hurdles. • In addition please note responses given to Q 16.	
Question 4	**What costs will manufacturers and distributors face to meet these requirements? If possible, please estimate the costs through quantitative data.** • The cost for the implementation of the changes proposed in the regulation put forward will be substantial. It is difficult to quantify, in particular, since many principles and rules leave some room in the specification in the national transpositions. • It should be noted that any cost imposed by additional rules – both for implementation as well as for ongoing compliance and related internal administrative efforts - will be priced in the products and ultimately borne by the customers. This calls for a careful assessment of costs and customer benefits. Care should be taken not to jeopardize the effective offerings available to customers, especially in the lower-income end of the market. • While we are unable to provide concrete Euro estimates at this point in time, it should be understood that the running cost for the newly established concept of POG, next to additional reporting obligations based on last century's paper by default obligation create substantial additional regulatory costs of insurance products.	
Question 5	**Do you agree with the proposed high-level principle in order to assess whether activities of an insurance intermediary should be considered as manufacturing?** • Yes, in particular we agree with the principle of an overall analysis (sec. 11, p. 29), i.e. a holistic perspective. • If the high level principle is designed to introduce further consumer protection in the process of more tailor made product development, the allocation of liabilities should not be left to the co-manufacturer's free contractual choice. Such contract would not be transparent to the client but might indirectly impact his protection. It would be therefore useful requiring that co-manufacturers and their respective	

	liabilities in the manufacturing process are indicated in information documents given to prospective clients in good time before conclusion of the contract (e.g. KID or similar document).	
Question 6	**Do you consider that there is sufficient clarity regarding the collaboration between insurance undertakings and insurance intermediaries which are involved in the manufacturing of insurance products? If not, please provide details of how the collaboration should be established.** • Generally, the rules should permit an adequate allocation of responsibility • The base principles should be outlined more clearly: the manufacturer, i.e. policy grantor is liable with view to contractual terms of risk coverage and claims management. The intermediary / co-manufacturer should be liable for the the target market definition (i.e. his client constitutes the target market) and needs assessment, which leads to the product design. Similarly the ongoing monitoring should remain the duty of the co-manufacturer; i.e. the co-manufacturer's knowledge about the clients needs make him be best placed to ensure that the procut offering is in line with the clients needs. Finally: compensation scemes and conflict of interest management may deserve explicit transparency to the clients to ensure that customer detriment is prevented. – in other words: there should be material criteria defined which make an intermediary qualify as co-manufacturer with the consequence, that this entity should then be subject to the POG rules, while the insurance manufacturer is producer on demand. • When in the extreme the distributor is de facto the sole manufacturer of the product, only this party should be subject to the product oversight and governance requirements of the product, while the insurance undertaking (risk carrier) is responsible to the customer for all the contractual obligations • In any case, the manufacturer should not be assigned responsibility for compliance functions which extend beyond its legal or practical sphere of influence, especially with respect to intermediaries and (co-)manufacturing (see e.g. DTA 25, p. 24).	
Question 7	**Do you agree with the proposed high-level principle for the granularity of the target market? If not, please provide details on the level of detail you would prefer.** • No. The definition is problematic, in particular with respect to restrictive rules on sales outside target market (sec. 52/53, p. 20/21). Rules too restrictive on	

potential sales outside target market should also be carefully evaluated taking into account the autonomy and independence granted to some type of distributors (also by the DTA at sec. 52/53) in (i) defining their own service model and (ii) assessing the specific needs of their clients.

- This restrictive treatment requires a very broad definition of the target market which may result in possible liability exposure due to sales to persons within the target market but for which the product is nevertheless not suitable. If those market segments would be excluded, those customers which need the product in these segments would be in effect cut off from obtaining beneficial coverages.
- The problem results from the unavoidable dilemma, that the target market definition by design has to be abstract and must not be excessively granular (since it also must be included in the PRIIP KID, for example)
- We therefore propose the following understanding (which should be clarified in the ultimate Technical Advice):
    - Adequately broad definition of target market, which adequately adresses the trade-offs of
        - an overly restrictive definition of the target market, which could in effect cut some customers off from valuable insurance coverages
        - an overly broad definition of the target market which would limit the usefulness of the target market concept by leaving too many customers inside the market for whom the product is not suitable
        - an overly granular definition of the target market which cannot be practically defined or managed
    - The rules should leave the ultimate responsibility of matching the product to individual customer's demands and needs to the distributor at the point of sale, since in many cases only taking into account the individual circumstances permit a proper assessment.
    - For IBIP products the granularity of the target market description should not be required to exceed the two dimensions explicitly required in Art. 8 (3) PRIIP Regulation, i.e. ability to bear losses and investment horizon.
    - For most non-life products the target market definitition will be aligned very closely with the risk coverage of the product. An obligation to provide a very detailed definition of a negative target market (i.e. identifying non-

	target customers) might put a disproportionate burden on the manufacturer in many cases. • In order to achieve consistency across regulations dealing with the same topics, for insurance PRIIPs (or IBIPs) the criteria for the POG target market definition under IDD should be aligned with the "type of retail investor to whom the PRIIP is intended to be marketed" (in Art. 8 (3)(c)(iii) PRIIPs Regulation). In particular, the list of compulsory criteria for the target market definition of these products should not be extended beyond PRIIPs Draft RTS Art. 2 III.	
Question 8	**Do you agree with the proposed review obligations for manufacturers and distributors of insurance products? Would you consider it important to introduce a minimum frequency of reviews which should be undertaken by the product manufacturer e.g. every 3 years?** • Generally agree with review obligations. • A minimum frequency of reviews is not necessary.	
Question 9	**Are there any other elements which you would consider appropriate in order to specify the regulatory requirements on conflicts of interest as laid down on Article 27 and Article 28 IDD? If possible, please specify in detail.** • No. • In addition, the proposed categories for conflicts of interest (COIs) have not sufficiently been tailored to typical COIs for insurance distribution. Instead, the categories listed (DTA 2, p. 45) have mainly been derived from the MiFID equivalents which address typical COIs in trading capital market instruments. • In particular, o it is not clear which scenarios are targeted by the assumed horizonzal conflicts of interests between customers (see examples in sec. 6, p. 44 and DTA 2b, p. 45) o In addition, the vague wording of "financial gain" for an insurance undertaking (DTA 2a, p. 45) or "monetary or non-monetary benefit" (DTA 2c, p. 45) could potentially be used to challenge any margin or commission. This would clearly exceed the regulatory intent of IDD Level 1, where restrictions on commissions and limits on margins have explicitly been	

	considered and dismissed. Therefore, L2 should not try to open a back door on these issues. ○ Certain non-monetary benefits, such as product training etc. would possibly be covered by the definition of inducements but should not per se be classified as COI since they explicity enhance the quality of the service to the customer. • In addition, it should be clarified in the DTA that assessment, avoidance and mitigation of conflicts of interest should be subject to the criterion of materiality as well as the principle of proportionality. As a case in point, in DTA 2d, p. 25 only people with *a "substantial"* (instead of "any") involvement in both the distribution and the product development should be lead to the assumption of a potentially relevant conflict of interest which needs to be mitigated. • In any case, it should be clarified in the DTA that COI rules are not intended to impose de facto commission bans through the back door or excessive restrictions on commission-based distribution models, which had explicitly been discussed and dismissed in the legislative process leading to IDD Level 1.	
Question 10	**Do you agree that the policy proposals do not need further specification of the principle of proportionality and allow sufficient flexibility to market participants to adapt the organisational arrangements to existing business models? If you do not agree, please explain how the principle of proportionality could be elaborated further from your point of view?** • Allianz agrees that the principle of proportionality (as well as the inclusion of a holistic view on arrangements to deal with COIs) is important. • Even if the principle of proportionality (implicitly) underlies the rules as proposed it would nevertheless be beneficial to explicitly include the mentioning of the principle in the DTA to make this clear beyond doubt. • The main reason is that it should be possible to read the rules as stand-alone text (without the explanatory remarks in the consultation). This aspect is particularly important in case of principles-based regulation (such as COI rules), since they generally offer broader room for interpretation. • In addition, Allianz considers it important to take a holisitic view on the arrangements to mitigate COIs. The main yardstick to measure handling of COIs	

	should be effectiveness of the arrangements, not formal arguments. This requires acceptance for effective mitigation measures of all sorts.	

Question 11	**Do you agree with the proposed high level principle to determine whether an inducement has a detrimental impact on the relevant service to the customer?**
	• No.
	• We generally agree with the requirement to assess the potentially detrimental impact of a third party payment.
	• Unfortunately the DTA proposal (p. 54/55) as well as the analysis (p. 50 – 53) far exceeds the mandate given by the IDD Level 1 text.
	• In particular
	  ○ The wording of DTA 3, p. 54 should be changed to "Detrimental impact may occur", since the employment of a potentially risky practice does not necessarily trigger detrimental impact but only increases the corresponding risk.
	  ○ The (non-exhaustive) "black list" approach lists only negative examples for "high risk" of detrimental impact (see DTA 4/5, p. 34)
	  ○ The "black list" contains many elements with are undefined and or imprecisely specified. While this is unavoidable under a principles-based regime, there is room for some valuable clarifications. Specifically:
	  ▪ DTA 4. a) should be clarified not be interpreted to always call for advice to buy product with lowest margin within available product range, since qualitative aspects may lead to other results
	  ▪ DTA 4. c) what constitutes excessive or disproportionate value of inducements
	  ▪ DTA 4. d) the wording should be limited to inducements which are entirely paid upfront
	  ○ The corresponding "white list" of potentially compensating factors (see sec. 17, p. 52) by contrast is relegated to the analysis section, which is no formal part of the DTA.
	  ○ In addition, the potential use of the mitigation effect of elements from the white list is limited by explicity denying them any compensatory effect (see sec. 18, p. 53). This in effect renders the white list ineffective.
	• In effect, even despite formally acknowledging non-prohibition of elements of the	

	black list (see sec. 15, p. 51), it would be almost impossible for any distributor to employ any of the elements on the black list in practice without incurring a high risk of liability risk. • Assessment of inducements vs. inducement schemes (see defintions in DTA 1 / 2, p. 54 and DTA 8, p.55): While it is sometimes relevant to look at single inducements to assess the riskiness of a practice, in general it is more adequate to assess the inducement scheme applied to a product or a distributon channel (i.e. the overall set of rules) than each individual inducement. The inducment scheme often gives a better holistic perspective on the remuneration and whether it is fairly balanced with view to the financial service provided. In addition, the assessment of each single payment to each distributor (as indicated in DTA 8, p.55) would not only fragment the perspective but also be disproportionately burdensome. It should therefore be clarified that the holistic assessment of the inducement scheme is the predominant concept of evaluation of inducements, being well understood as a special case of conflict of interest management unless single inducements trigger a material change to the holistic assessment. • This in effect implements an overly restrictive regime on remuneration which is not covered by IDD Level 1 and the COM mandate, which explicitly calls for consideration of white list elements (see COM Mandate, p. 48 second to last paragraph). • As alternative, Allianz proposes to o Change the wording in DTA 3, p.54 to "Detrimental risk may occur" o Delete the term "high" from "high risk" in the introductory paragraph of DTA 4, p. 54, replacing by "potential". o Permit a holistic perspective, including the explicit possibilty of ▪ taking into account mitigating ("white list") factors within the DTA, which should include the aspects listed in sec. 17, p. 52/52, but also (as for the "black list") not be limited to these aspects o explicitly permit the focus of the assessment on inducement schemes (as defined in DTA 2, p. 54) unless individual inducements (DTA 1, p. 54) trigger a material change to the holistic assessment.	
Question 12	**Are there any further inducements which entail the high risk of leading to a detrimental impact and should be added to the list in paragraph 4 of the draft**	

	technical advice above? • No, list is already very/too restrictive (see Q11).	
Question 13	**To which extent are inducements which are considered bearing a high risk of detrimental impact part of existing business and distribution models? Please specify your answer and describe the potential impact of these proposals (if possible, with quantitative data).** • Several of the elements listed in DTA 4, p. 54 are currently used in many distribution models, e.g. upfront commissions.	
Question 14	**Are there any further organisational measures or procedural arrangements which you would consider important to monitor whether and to ensure that inducements have no detrimental impact on the relevant service to the customer and do not prevent the professional from complying with their obligation to act honestly, fairly and in accordance with the best interests of their customers?** • No. • In particular, the organizational requirment to assess each inducement (as opposed ot inducement scheme, see DTA 8, p.55) may in many cases be disproportionate and create unnecessary administrative burdens (see also Q11). While it is sometimes relevant to look at single inducements to assess the riskiness of a practice, it is typically more adequate to assess the inducement scheme applied to a product or a distributon channel (i.e. the overall set of rules) than each individual inducement. The inducment scheme often gives a better holistic perspective on the remuneration and whether it is fairly balanced with view to the financial service provided. In addition, the assessment of each single payment to each distributor (as indicated in DTA 8, p.55) would not only fragment the perspective but also be disproportionately burdensome. It should therefore be clarified that the holistic assessment of the inducement scheme is the predominant concept of evaluation of inducements, being well understood as a special case of conflict of interest management unless single inducements trigger a material change to the holistic assessment.	
Question 15	**Do you agree with the high level criteria used to specify the assessment of suitability and appropriateness? Are there any criteria you would exclude, and why?**	

	• Yes, we agree with high level criteria used for the assessment of suitability and appropriateness. The relevant investment objectives, the financial situation and knowledge and experience typically can often not be assessed fully using schematic approaches. It is therefore important that the responsibility rests with the distributor (DTA 5) and rules permit for a adaptation of the criteria to the relevant situation as proposed in EIOPA's DTA.	
Question 16	**When EIOPA is reflecting insurance specificities in the policy proposals above, do you agree with them? In particular, with regard to insurance specificities related to the protection elements within an insurance-based investment product (e.g. biometric risk cover), are there aspects regarding the information to obtain (such as the 'risk profile') for the assessment of suitability and appropriateness that would necessitate further and/or more explicit insurance specificities?** • The DTA restricts the provision of advice to customers which do not provide sufficient information (DTA 10, p. 65). We would welcome a clarification that this does not amount to a ban on sales of such product to that customer but typically to the application of the rules for non-advised sales (i.e. typically an appropriateness test). In practice, this may be a very relevant case when potential customers of insurance-based investment products want to purchase a product but do not want to disclose all personal information requested, especially on his or her financial situation. • In effect, the customer should ultimately decide which personal information he or she wants to disclose but should be fully aware of the implications. To this end, the customer should be notified (see DTA 9 (a), p. 65) and the distributor should generate the relevant documentation. • In addition for group contracts, it should be clarified DTA 8, p. 64/65, that the policy should specify that information request and assessment should take the perspective of the collective, since this is the relevant perspective for the assessment of suitability.	
Question 17	**In practice, what information do you expect to collect for the assessment of suitability and appropriateness in addition to the demands and needs?** • This is highly product specific and in accordance with Art. 30 (1) IDD may also need to be tailored to specific circumstances. Details should be left open on Level	

	2. • In addtion, IDD standards should seek consistency here with respective terms and terminology set out in PRIIPs in order to establish a harmonized minimum concept for suitability and appropriateness testing, that allows both advisors and customers to understand, which level of detailed information is for good reasons needed to be taken into account to prepare a sustainable choice of financial product.	

Question 18	**Do you think that it could be useful for EIOPA to provide any specification and/or guidance on the relationship between the demands and needs test and the suitability/appropriateness assessment, in a separate policy instrument, given that this point is not addressed in this technical advice?**
	• No. There is no mandate to specify the demands and needs test for EIOPA in IDD Level 1 and therefore this element should be left to the Member States for implementation where in many cases there are pre-existing standards.
	• The text of IDD Level 1 gives sufficient clarity on the relation of the concepts. While the demands and needs test is applicable to all insurance products, while suitability and appropriateness assessment signify specific (stricter) standards for insurance-based investment products. Therefore, with regard to substance, the demands and needs test required by IDD Level 1 should be considered a lower level requirement than tests for appropriateness and suitability.
	• The material requirements for a demands and needs test will also probably depend on the type of product, e.g.
	  ○ the (known) purchase of a car typically constitutes sufficient indication to require demand and need for (mandatory) motor third party liability cover
	  ○ Based on the intent of the rule, there should be a clear emphasis on the demand side. In particular, a self-directed (e.g. web-based) research on product availabilities should constitute a valid and sufficient indication for demand or need for a customer. In such case, no onerous additional needs test requirements should be imposed on the manufacturer / distributor, except where the provider has positive knowledge of detrimental factors.
	  ○ More generally, the regulation must take special care not to overburden digital sales processes.	

Question 19	**Do you agree with the high level and cumulative list of criteria used to**	

	define other non-complex products? Are there any you would make optional or exclude, and why? • Generally, complexity should be defined from the perspective of the customer, not from the perspective of the technical product design. • For example, many (life) insurance products contain guarantee elements which are add protection by clearly reducing the risk exposure of the customer, thereby making it more (not less) predictable. • It would therefore be counterproductive to the protective idea behind the introduction of complexity criteria to label such products more (not less) complex. • DTA 1.(g) p. 71 should be excluded from the list since it introduces a non-defined legal term creating legal incertainty on the potential qualification of a product as being "complex".	
Question 20	**Are there any further high level criteria which you would consider necessary and important, and why? In particular, how could insurance specificities be taken into account?** • From a customer centric perspective the the label of complexity should be applied only to such areas the customer needs to understand in order to take a well-informed decision; namely in all product features / categories of risk coverage where the customer benefit is guaranteed by the product provider, there is no need for the customer to understand the technical/ actuarial etc. concept of how the manufacturer will be able to comply with its obligations. In other words: the risks involved which the customer needs to understand and take into account for his decision are those which may influence the future benefit and economic outcome of the investment part of an IBIP. • In particular, products which contain elements which clearly and demonstrably reduce the risk exposure for the customer (and can be understood by the customer in this regard) should be classified as non-complex. In particular, products which systematically reduce the capital market risk exposure of the customer,e.g. products with collective investment character, products containing guarantees and other safety mechanisms, as well as product with non-material investments in instruments classified as complex under MiFID II, should be classified as non-complex.	

	• Insurance specificities can be taken into account by recognizing the role of guarantees in rendering the structure of a product suitably non-complex (Analysis sec. 5, p. 68). These guarantees neutralize, from a customer's perspective, any potential investment risk underlying the product and enable client understanding of the risks involved (Analysis sec. 5, p. 68) by giving him full assurance of the amount paid out. We strongly recommend reflecting that principle in DTA 1(a), (e) and (g) in particular.	
Question 21	**While point (i) of point (a) of paragraph 3 of Article 30 is intended to capture the majority of non-complex products, the above listed criteria should capture equally non-complex products falling outside of point (i). Are there any gaps?** • Art. 30(3)(a)(i) IDD primarily establishes a link between MiFID II and IDD and applies to insurance products with are closely related to typical MiFID-instruments, e.g. unit linked products. Therefore this article does not target insurance products which contain guarantee elements thereby reducing the capital market exposure of the customers. • Since we take the position that guarantee elements in insurance products can significantly contribute to reduce complexity from the customer perspective (see also answers to Q19 and Q20), it is not clear, why the question assumes that Art. 30(3)(a)(i) IDD is "intended to capture the majority of non-complex products". • In particular, products which contain elements which clearly and demonstrably reduce the risk exposure for the customer (and can be understood by the customer in this regard) should be classified as non-complex. In particular, products which systematically reduce the capital market risk exposure of the customer,e.g. products with collective investment character, products containing guarantees and other safety mechanisms, as well as product with non-material investments in instruments classified as complex under MiFID II, should be classified as non-complex. • In any case, no criteria should be introduced which exceed the approach taken under MiFID.	
Question 22	**On retention of records, do you agree with the high level criteria used? Are there any you would exclude, and why?** • We generally agree with a high-level approach regarding record keeping.	

	• It should be noted that agreements between the parties are governed by national law. The rules should not be in conflict with this fact, which is also in line with the minimum harmonization approach which governs the IDD. • We also support the approach to avoid excessive overload for consumers and administrative burdens for intermediaries and undertakings (see sec. 9, p.76) • While we support the general scope of record keeping, some clarifications would be helpful • the records on changes on suitability assessments (DTA 17, p. 77) should only need to be updated if this has explicitly been agreed upon (according to Art. 29 (1) a) IDD and Art. 30 (5) IDD. • DTA 17 b) should only require the recording regarding the recommended product (i.e. it should be a mirror image of the suitability assessment), not a multitude of potentially fitting product types. Such broader obligation would be disproportionatly burdesome.	
Question 23	**When EIOPA is reflecting insurance specificities in the policy proposals, do you agree with them?** • We generally welcome the efforts by EIOPA to reflect insurance specificities in the proposals. The reflection of these specificities is justified both by the specific nature of the products as well as some specificities in the organization of the distribution.	
Question 24	**Do you agree with the high level criteria used with regard to the suitability statement and the periodic communications to customers? Are there any criteria you would exclude, and why?** • We generally agree with the principles-based approach set forth in DTA 7 and 8, p.86, however, we are concerned about some of the specific proposals in the details of DTA 8 (a) – (l). In particular, we are concerned with the extension and / or potential inconsistency of these requirements with those under Art. 185 (5) Solvency II. This may lead to "notification fatigue" and/or "information overload" of customers. For many points, notably DTA 8 (b), (c), (d), (h), (j), (k), the DTA may extend the Solvency II reporting requirements (somentimes depending on the interpretation). Some concepts also seem to be transferred from the investment context where it is not always clear how they can be applied to many insurance	

	products, namely DTA 8 (d), (h) and (j). For instance, it is not always clear whether the requirement focuses on the reporting period or the total period from conclusion of the contract.
	• Specifically:
	  ○ DTA 8 (b): Which types of cost does "other cost" address (would this address fees instead of commissions included in DTA 8 (a))?
	  ○ DTA 8 (c): Does this constitute an additional (new) reporting requirement whenever the value of the contract drops below the values reported initially? In our understanding this would already be addressed in Art. 185(5) Solvency II. May be dispensable.
	  ○ DTA 8 (f), (g): Does this constitute an additional reporting requirement on the development of the underlying fund. May already be covered under Art. 185 (3) h) and 185 (5) c) Solvency II. May be dispensable
	  ○ DTA 8 (h): Annual yield. May not deliver relevant information for many IBIP contracts which often run for decades, therefore an annual yield is of limited value.
	  ○ DTA 8 (j): Requirement could be limited to components where investment risk is borne by the customer
	  ○ DTA 8 (k): Is an annual reminder on the process (not the value) of these customer options relevant and necessary? If yes, there may be other options which could also be relevant, e.g. additional options to top-up premiums / coverage.
	• Generally, we propose to amend the DTA to conform to Solvency II where similar points are addressed. Any other approach may produce inconsistency and cause confusion.
	• In addition, we also support EIOPA's perspective, that the empowerment under Art. 30 (6) IDD does not extend to the introduction of a mandatory "demands and needs statement".	

Question 25	**When EIOPA is reflecting insurance specificities in the policy proposals, do you agree with them?** • We generally welcome EIOPA's approach to reflect insurance specificities.	
Question 26	**Should EIOPA specify further criteria with regard to the periodic communication to**	

| | **customers, such as the division of responsibility or more details on the online system?**
• We would not consider Level 3 Guidelines helpful at this point in time: they may further delay the urgently needed clarity on specific rules in insurance distribution which are an important precondition to sucessful transposition of IDD into national law and implementation in practice. | |