Consultation Paper

DRAFT GUIDELINES ON THE INTEGRATION OF THE CUSTOMER'S SUSTAINABILITY PREFERENCES IN THE SUITABILITY ASSESSMENT UNDER THE INSURANCE DISTRIBUTION DIRECTIVE

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CONTENTS

RESPONDING TO THIS PAPER

EIOPA welcomes comments on the Consultation Paper regarding its Guidelines on the integration of sustainability in the advice process under Directive 2016/97.

Comments are most helpful if they:

- respond to the question stated, where applicable;
- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

Please send your comments to EIOPA by 13 May 2022, responding to the questions in the survey provided at the following link[1]: https://ec.europa.eu/eusurvey/runner/IDDsustainabilityguidelines

Contributions not provided using the survey or submitted after the deadline will not be processed and therefore considered as they were not submitted.

Publication of responses

Your responses will be published on the EIOPA website unless: you request to treat them confidential, or they are unlawful, or they would infringe the rights of any third party. Please, indicate clearly and prominently in your submission any part you do not wish to be publicly disclosed. EIOPA may also publish a summary of the survey input received on its website.

Please note that EIOPA is subject to Regulation (EC) No 1049/2001 regarding public access to documents and EIOPA's rules on public access to documents[2].

Declaration by the contributor

By sending your contribution to EIOPA you consent to publication of all information in your contribution in whole/in part – as indicated in your responses, including to the publication of your name/the name of your organisation, and you thereby declare that nothing within your response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

[1] EUSurvey supports the following browsers: Microsoft Edge (last 2 versions), Mozilla Firefox and Google Chrome (latest versions). Using other browsers might cause compatibility issues.

[2] Public Access to Documents

Data Protection

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INTRODUCTION

The assessment of suitability is one of the most important requirements for investor protection in the framework under Directive 2016/97 of the European Parliament and of the Council on the Insurance distribution (the IDD). Insurance undertakings and insurance intermediaries providing advice have to provide suitable personal recommendations to their customers. Advice is provided in the form of a suitability assessment, which in some Member States is mandatory for the distribution of insurance-based investment products. In addition to the suitability assessment, insurance undertakings and insurance intermediaries have to assess the demands and needs of the customer. The assessment of demands and needs is required whether or not advice is being provided.

Commission Delegated Regulation (EU) 2021/1257[3] will introduce important changes as of 2 August 2022 in the way the sustainability preferences of the individual customer are taken into account in the suitability assessment by the insurance undertakings and insurance intermediaries providing advice on insurance-based investment products. The amendments to the IDD introduced by Commission Delegated Regulation 2021/1257 aim to ensure that retail investors can invest and save sustainably and facilitate their participation in the transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals, as insurance intermediaries and insurance undertakings have to recommend insurance-based investment products that meet the sustainability preferences of their customers or potential customers, if they have such preferences: “Recommendations to customers or potential customers should reflect both the financial objectives and any sustainability preferences expressed by those customers”[4].

Important regulatory initiatives are still ongoing to identify and properly disclose investments in sustainable economic activities, including under the EU Taxonomy. These disclosures are crucial for insurance undertakings and insurance intermediaries to assess whether the products offered match the sustainability preferences of customers. The challenge is that some of the rules are not yet finalised and the implementation of these initiatives does not converge at the same points in time, in particular the application date of Commission Delegated Regulation (EU) 2021/1257 precedes the deadlines for reporting of company-reported data under the Corporate Sustainability Reporting Directive and of the application of the Delegated Regulation supplementing the SFDR. As a result,

[3] Commission Delegated Regulation (EU) 2021/1257 of 21 April 2021 amending Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359 as regards the integration of sustainability factors, risks and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors and into the rules on conduct of business and investment advice for insurance-based investment products (OJ L 277, 2.8.2021, p. 18).
[4] Recital 11 of Commission Delegated Regulation (EU) 2021/1257.

the data currently available might be still limited and hence EIOPA expects the insurance market to mature further in the future on the basis of the application of these requirements.

The main objective of including sustainability factors in the advisory process is to ensure that it does "not lead to mis-selling practices or to the misrepresentation of insurance-based investment products as fulfilling sustainability preferences where they do not"[5]. In order to avoid such practices or misrepresentations, insurance undertakings and insurance intermediaries providing advice on insurance-based investment products should first assess a customer's or potential customer's other investment objectives and individual circumstances, before asking for his or her potential sustainability preferences[6].

In order to prevent mis-selling and greenwashing, insurance undertakings and insurance intermediaries distributing insurance-based investment products should not recommend insurance-based investment products as meeting individual sustainability preferences where those products do not meet those preferences.

In accordance with Article 16(2) of Regulation (EU) No 1094/2010 (the EIOPA Regulation), this paper sets out for consultation these draft EIOPA Guidelines on the integration of sustainability in the advice process under the IDD.

Next Steps

EIOPA will consider the responses received to this consultation paper in May and June 2022 and expects to publish the final Guidelines in July 2022. The public consultation period of 4 weeks for stakeholders to provide responses is unusually short. EIOPA recognises that such a short period to carry out a public consultation is not preferable from a policy-making perspective, but is caused by the limited time available to develop the guidelines in order that they are finalised in time for the application date of 2 August 2022 of Commission Delegated Regulation (EU) 2021/1257. The adoption of guidelines reduces the risk of diverging interpretations that might lead to discrepancies in the application and supervision of the relevant regulation and requirements across Member States (determining a risk of regulatory arbitrage and circumvention of rules).

Some schematics and flow charts have been annexed to the draft Guidelines to facilitate comprehension of the relevant provisions. It is recognised, however, that there are some limitations to what these Guidelines can achieve in terms of facilitating understanding both for firms and consumers, given the need for more formal drafting. EIOPA will, therefore, look into the possibility

[5] Idem

[6] Idem

of developing more user-friendly guides/tools for both firms and consumers to facilitate the sales process for sustainable products, as a follow-up to this work.

RATIONALE AND OVERVIEW OF THE DRAFT GUIDELINES

Guideline 1 - Information to customers about the purpose and the scope of the suitability assessment with regard to sustainability

Commission Delegated Regulation (EU) 2021/1257 introduced a definition of "sustainability preferences" under the IDD to ensure that only insurance-based investment products with certain sustainability-related features are eligible for recommendation to customers who express sustainability preferences. With regard to the Commission Delegated Regulation (EU) 2021/1257, Regulation (EU) 2019/2088 (Sustainable Finance Disclosure Regulation - SFDR), not all insurance-based investment products that promote environmental or social characteristics according to the SFDR can be provided to customers with sustainability preferences in an advised sale.

The concept of "sustainability preferences" and the options within this, as defined in points a) to c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359[7], are new concepts that customers are not used to. Hence, insurance undertakings and insurance intermediaries should explain to customers these terms in a language that is clear, succinct, comprehensible and not misleading.

Guideline 2 - Collection of information on sustainability preferences from the customer

Commission Delegated Regulation (EU) 2021/1257 requires insurance undertakings and insurance intermediaries providing advice to collect information from customers regarding their sustainability preferences in relation to insurance-based investment products.

EIOPA establishes what information should be obtained from customers on their sustainability preferences relating to the IBIP's minimum proportion invested in environmentally sustainable investments as defined under the Regulation (EU) 2020/852 (Taxonomy Regulation), the minimum proportion invested in sustainable investment as defined under the SFDR or the consideration of principal adverse impacts of the IBIP investments on sustainability factors.

In particular EIOPA clarifies that:

1. The information should be collected as part of information on the investment objectives.

[7] Commission Delegated Regulation 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products, as amended (OJ L 341, 20.12.2017, p. 8), as amended by Commission Delegated Regulation EU) 2021/1257 .

2. In order to collect information on the minimum proportion invested in environmentally sustainable investments as defined under the Taxonomy Regulation, insurance undertakings and insurance intermediaries should ask the customer whether the Taxonomy-alignment should be based on all the investments of the insurance-based investment product, or only on the assets that are not government bonds.

2. The minimum proportion of environmentally sustainable investments as defined under the Taxonomy Regulation or of sustainable investments as defined under the SFDR should be expressed in percentages or shares. EIOPA is of the view that ranges should not be used for that purposes as providing for a maximum proportion would risk preventing products with higher proportions of environmentally sustainable investments or other sustainable investments from being recommended to the customer.

3. Where a customer expresses sustainability preferences with regard to environmentally sustainable investments as defined under the Taxonomy Regulation or sustainable investments as defined under the SFDR in generic terms, but has not determined a specific minimum proportion, the insurance undertaking or insurance intermediary can help the customer to identify the minimum proportion by approximating the minimum proportion by standardised minimum proportions, such as “minimum 10%, minimum 20%, minimum 30%, etc.”.

4. Where despite the explanations given by the insurance undertaking or insurance intermediary providing advice, the customer does not specify a sustainability preference with regard to any of the aspects, the insurance undertaking or insurance intermediary could proceed with a recommendation and keep record of the reasons underlying the recommendation of an insurance-based investment product that is considered compliant with the customer’s sustainability preferences expressed in generic terms.

5. The specificities of multi-option products required to develop a specific proposal for the collection of information. In particular in the guidelines EIOPA provides guidance on how to obtain information on the preference with regard to principal adverse impacts. Insurance undertakings and insurance intermediaries should collect information from the customer on whether all underlying options should consider PAI of investment decisions on sustainability factors, or only a proportion or a selection of one or more underlying options.

Guideline 3 - Periodic assessment

EIOPA clarifies that the information on preferences should be updated when the information on the customer is being updated or at the time of a regular periodic assessment. For existing customers, for whom a suitability assessment has already been undertaken, insurance intermediaries and insurance undertakings should identify the customer's individual sustainability preferences at the next regular update of the existing suitability assessment.

Guideline 4 – Collection of information on the sustainability features of insurance-based investment products

Commission Delegated Regulation (EU) 2021/1257 requires insurance undertakings and insurance intermediaries providing advice to collect customers' sustainability preferences and consider them as part of the customer's suitability assessment.

EIOPA provides guidance to insurance undertakings and insurance intermediaries on how to obtain the information on the sustainability features of products, based on the SFDR pre-contractual product disclosures under Directive 2009/138/EC (Solvency II Directive), in order to assess whether a product matches the sustainability preferences of the customer.

With regard to multi-option products, EIOPA provides guidance on how insurance undertakings and insurance intermediaries should assess whether the proportion of investments in environmentally sustainable economic activities or in other sustainable investments or the consideration of principal adverse impacts engendered by the insurance-based investment product meet the sustainability preferences of the customer.

Guideline 5 - Arrangements for ensuring the suitability of an insurance-based investment product

According to recital 11 of Commission Delegated Regulation (EU) 2021/1257, insurance intermediaries and insurance undertakings providing advice on insurance-based investment products should first assess a customer's or potential customer's other investment objectives and individual circumstances, before asking for his or her potential sustainability preferences.

EIOPA clarifies that sustainability preferences should only be assessed once the suitability has been assessed in accordance with the criteria of knowledge and experience, financial situation and other investment objectives. Once the range of suitable products has been identified following this assessment, in a second step, the insurance-based investment product that fulfils all the customer's preferences, including the sustainability preferences, should be chosen among the ones identified in the first step.

Guideline 6 – Compliance with the record-keeping requirements

Commission Delegated Regulation (EU) 2021/1257 introduces the possibility for the customer or potential customer to adapt the sustainability preferences in the case where no IBIP is made available by the insurance undertaking or insurance intermediary that meets the customer's sustainability preferences.

EIOPA clarifies that insurance undertakings or insurance intermediaries providing advice on insurance-based investment products are required to record all relevant information about the situations where a customer's sustainability preferences are adapted, including a clear explanation of the reasons for such adaptation.

Guideline 7 – Competences of employees of insurance undertakings and insurance intermediaries in order to assess the sustainability preferences of customers

EIOPA clarifies that employees of an insurance undertaking or insurance intermediary providing advice on insurance-based investment products should possess the necessary knowledge and competence with regard to the criteria of the sustainability preferences as specified in point (4) of Commission Delegated Regulation (EU) 2017/2359 and be able to explain to customers the different aspects in a language that is clear, succinct, comprehensible and not misleading. Insurance undertakings and insurance intermediaries offering insurance-based investment products that promote environmental or social characteristics or that have a sustainable investment objective should have more detailed knowledge and competence, in accordance with the nature of the products they provide advice on.

DRAFT GUIDELINES

1. INTRODUCTION

1. In accordance with Article 16 of Regulation (EU) No 1094/2010[8], EIOPA is issuing these guidelines to clarify the application of sustainability preferences of the customer under the suitability assessment provided for in Article 30 of Directive (EU) 2016/97 (the IDD)[9] and Articles 2, 9 and 14 of Commission Delegated Regulation (EU) 2017/2359[10], as amended by Commission Delegated Regulation 2021/1257[11].

2. The amendments introduced by Commission Delegated Regulation 2021/1257 aim to ensure that customers can invest and save sustainably and facilitate their participation in the transition to a low-carbon, more sustainable, resource-efficient and circular economy in line with the Sustainable Development Goals. Insurance undertakings and insurance intermediaries have to recommend insurance-based investment products that meet the sustainability preferences of their customers or potential customers, if they have such preferences. These rules contribute to the prevention of mis-selling practices or misrepresentation of insurance-based investment products as fulfilling sustainability preferences where they do not, as insurance undertakings and insurance intermediaries are required to choose among products that match those preferences.

3. These Guidelines are addressed to competent authorities, insurance undertakings and insurance intermediaries.

4. Competent authorities should ensure a proportionate regime when supervising these guidelines that takes into account the nature and size of insurance intermediaries, whilst, at the same time supporting a consistent level of consumer protection.

[8] Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pension Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

[9] Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19).

[10] Commission Delegated Regulation (EU) 2017/2359 of 21 September 2017 supplementing Directive (EU) 2016/97 of the European Parliament and of the Council with regard to information requirements and conduct of business rules applicable to the distribution of insurance-based investment products (OJ L 341, 20.12.2017, p. 8).

[11] Commission Delegated Regulation (EU) 2021/1257 of 21 April 2021 amending Delegated Regulations (EU) 2017/2358 and (EU) 2017/2359 as regards the integration of sustainability factors, risks and preferences into the product oversight and governance requirements for insurance undertakings and insurance distributors and into the rules on conduct of business and investment advice for insurance-based investment products (OJ L 277, 2.8.2021, p. 18).

5. The Guidelines shall apply from XX 2022.

6. If not defined in these Guidelines, the terms have the meaning defined in the legal acts referred to in the introduction.

In addition, for the purposes of these Guidelines, the following definitions apply:

Insurance-based investment product' or 'IBIP'	(a) an insurance-based investment product as defined in point (2) of Article 4 of Regulation (EU) No 1286/2014[12]; or (b) an insurance product which is made available to a professional investor and which offers a maturity or surrender value that is wholly or partially exposed, directly or indirectly, to market fluctuations, as defined under Article 2(1), point 17 of the IDD.
Insurance undertakings or insurance intermediaries	Any natural or legal person who is established in a Member State or who wishes to be established there in order to take up and pursue the distribution of insurance and reinsurance products as defined under Article 1(2) of the IDD.
Environmentally sustainable investments	Environmentally sustainable investments as defined in point (1) of Article 2 of Regulation (EU) 2020/852[13].
Sustainable investments	Sustainable investments as defined in point (17) of Article 2 of Regulation (EU) 2019/2088[14].
Assessment of suitability	The whole process of collecting information about a customer and the subsequent assessment by the insurance undertaking or insurance intermediary that a given IBIP is suitable for a customer. When providing advice on an insurance-based investment product, the insurance intermediary or insurance undertaking shall also obtain the necessary information regarding the customer's or potential customer's knowledge and experience in the investment field relevant

[12] Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1).

[13] Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

[14] Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector (OJ L 317, 9.12.2019, p. 1).

to the specific type of product or service, that person's financial situation including that person's ability to bear losses, and that person's investment objectives, including that person's risk tolerance, so as to enable the insurance intermediary or the insurance undertaking to recommend to the customer or potential customer the insurance-based investment products that are suitable for that person and that, in particular, are in accordance with that person's risk tolerance and ability to bear losses, as defined under Article 30(1) of the IDD.

2. GUIDELINES

Guideline 1 - Information to customers about the purpose and the scope of the suitability assessment with regard to sustainability

7. In order to help customers understand the concept of 'sustainability preferences' and their choice as to whether and to what extent a particular insurance-based investment product should be integrated into their investment, insurance undertakings and insurance intermediaries should explain in a clear manner, avoiding technical language or introduction of other terms or definitions, the term 'sustainability preferences', the distinction between its different elements as defined in Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, as amended[15], as well as between products with and without such sustainability features. Insurance undertakings and insurance intermediaries should also explain what the different sustainability aspects of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359 mean.

8. The explanations to be provided to the customer can be presented in 'layers', for instance in the introduction to a questionnaire on the sustainability preferences. Insurance undertakings and insurance intermediaries should allow for providing more granular information if the customer requests it.

9. The explanations should be given prior to addressing the questions on sustainability preferences as part of the collection of information on the investment objectives of the customer.

Guideline 2 – Collection of information on sustainability preferences from the customer

[15] N.B. Any references in these Guidelines to provisions of the Commission Delegated Regulation 2017/2359 concern also amendments thereto, provided in Commission Delegated Regulation (EU)2021/1257.

10. For the purpose of a suitability assessment, insurance undertakings and insurance intermediaries should obtain information on sustainability preferences as the last element within the collection of information on investment objectives in accordance with Article 9(2)(a) and (4) of Commission Delegated Regulation (EU) 2017/2359 and recital 11 of Commission Delegated Regulation (EU) 2021/1257. The information to be obtained should include all aspects of "sustainability preferences" as defined in Article 2(4) of Commission Delegated Regulation (EU) 2017/2359. The information should also be sufficiently granular to allow for a matching of the customer's sustainability preferences with the sustainability-related features of insurance-based investment products, as well as to allow for a combination of the different aspects mentioned in Article 2(4) of Commission Delegated Regulation (EU) 2017/2359.

11.Insurance undertakings and insurance intermediaries should obtain the following information from customers:

a) whether the customer has any sustainability preferences (yes/no) after having explained to the customer what "sustainability preferences" are according to Article 2(4) of Commission Delegated Regulation (EU) 2017/2359;
b) whether the customer has sustainability preferences with regard to aspects defined in points a), b) or c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359 and if the customer has a preference for a combination of them, where relevant;
c) as a second step, for aspects defined in points a) and b) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, the minimum proportion respectively of environmentally sustainable investments as defined in point (1) of Article 2 of Regulation (EU) 2020/852 and of sustainable investments as defined in point (17) of Article 2 of Regulation (EU) 2019/2088;
d) for aspect defined in point c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, which principal adverse impacts (PAI) should be considered including quantitative or qualitative criteria demonstrating that consideration; and

e) for multi-option products (MOPs), insurance undertakings and insurance intermediaries should collect information from the customer on whether all underlying options should consider PAI of investment decisions on sustainability factors, or only a proportion or a selection of one or more underlying options.

12. Throughout the process, insurance undertakings and insurance intermediaries should adopt a neutral and unbiased approach so as to not influence the customer's answers. To achieve this:

- Insurance undertakings and insurance intermediaries should explain to the customers that there are two Key Performance Indicators (KPI) used to calculate the proportion of environmentally sustainable investments as defined in Article 2(1) of Regulation (EU) 2020/852:

- The first one (KPI 1) shows the Taxonomy-alignment of the product including all of its investments. However, it is significantly influenced by the current limitations to apply the Taxonomy rules to certain assets, in particular government bonds. If applicable, insurance undertakings and insurance intermediaries should explain to the customer that government bonds may help to reduce the volatility the investment return of the insurance-based investment product.
- The second KPI (KPI 2) shows only the Taxonomy-alignment of the assets that are not government bonds.
- Insurance undertakings and insurance intermediaries should provide the explanation on the basis of both KPIs (including and excluding sovereign bonds) included in the pre-contractual disclosure of an example of a product, under the section "To what minimum extent are sustainable investments with an environmental objective aligned with the EU Taxonomy?" in the Annex to the information provided to the customer in accordance with Article 185(2) of Directive 2009/138/EC[16] (Solvency II Directive).
- Subsequently, the insurance undertakings and intermediaries should ask the customer whether the Taxonomy-alignment should be based on all the investments of the insurance-based investment product, as presented in KPI 1, or only on the assets that are not government bonds, as presented in KPI 2 (see illustration in Figure 1 in Annex I).

- Insurance undertakings and insurance intermediaries should obtain information on whether the customer's sustainability preferences with regard to points b) and c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359 have a focus on either environmental or social criteria or a combination thereof, or whether the customer does not have such a preference. In addition, with regard to point b) of Article 2(4), information on the objective of sustainable investments could be obtained and, with regard to point c) of Article 2(4), information on to employee matters, respect for human rights, anti-corruption and anti-bribery matters could be obtained. This information could be obtained through yes/no questions.

- As a second step, insurance undertakings and insurance intermediaries should obtain information on the customer's preferences in terms of the 'minimum proportion' as set out in points a) and b) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359. Insurance undertakings and insurance intermediaries should obtain this information in terms of a particular percentage or share of environmentally sustainable investments as

[16] Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

defined in point (1) of Article 2 of Regulation (EU) 2020/852 and sustainable investments as defined in Regulation (EU) 2019/2088.

- In case the customer wishes to invest in an insurance-based investment product or in underlying investment options that consider PAI, the information collected should cover the PAI and qualitative or quantitative elements mentioned in point c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359.

- Insurance undertakings and insurance intermediaries should test the customer's preferences and appetite for PAI integration with regard to the families of PAI indicators as a whole, based on a possible focus of the customer on environmental, social or governance aspects, using the categories set out in Commission Delegated Regulation of 6.4.2022 [number xxxx] supplementing Regulation (EU) 2019/2088 such as emissions, energy performance, water and waste, social and employee matters, human rights (instead of an approach based on each PAI indicator).

- An evaluation could then be initiated for each category that is important for the customer. This evaluation should be based on the approaches in which products consider PAI (e.g. exclusion strategies, controversies policies, voting and engagement policies).

13. Where customers state that they do have sustainability preferences, but do not determine a preference with regard to any of the aspects defined in points a) to c) or with regard to a minimum proportion as set out in points a) and b) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, insurance undertakings or insurance intermediaries should explain again to the customer the specificities of each aspect in order to gather the information from the customer.

14. Where a customer expresses sustainability preferences with regard to aspects a) or b) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359 in generic terms, but does not determine a specific minimum proportion, insurance undertakings and insurance intermediaries may assist the customer to identify the minimum proportion by approximating the minimum proportion by standardised minimum proportions, such as "minimum 10%, minimum 20%, minimum 30%, etc. " This assistance should be provided in a neutral way and on the basis of the preferences of the customer, without influencing the customer's choice of the insurance-based investment product. The information provided by the insurance undertakings and insurance intermediaries to the customer should be sufficiently granular to enable the customer to determine the minimum proportion of environmentally sustainable investments or sustainability investments.

15. Insurance undertakings and insurance intermediaries should have policies and instructions in place for situations where, despite the additional explanations on sustainability, the customer is still not willing or not able to make a choice. Guideline 5 specifies the requirements for the assessment of suitability in this case.

16. Where a customer does not answer the question whether one has sustainability preferences or answers “no”, the insurance undertaking or insurance intermediary may consider this customer as ‘sustainability-neutral‘ and recommend products both with and without sustainability-related features. The product offer should be documented and explained to the customer and include information on the sustainability features of the insurance-based investment products offered.

17. If the customer states that he/she has sustainability preferences, and insurance undertaking or insurance intermediary does not have any insurance-based investment products with sustainability-related factors available, this should also be documented in the suitability assessment.

Guideline 3 - Periodic assessment

18. In line with recital 10 of Commission Delegated Regulation (EU) 2021/1257, for existing customers, for whom a suitability assessment has already been undertaken, insurance intermediaries and insurance undertakings should identify the customer’s individual sustainability preferences at the next regular update of the existing suitability assessment, and are not required to conduct the periodic assessment at the date of the application of the new requirements.

19. Insurance undertakings and insurance intermediaries should first assess the customer’s sustainability preferences including the minimum proportion when conducting the initial suitability assessment. When providing a periodic assessment of suitability, the information with regard to the sustainability preferences of a customer should be regularly updated.

20. For a customer who at the initial suitability assessment replied positively to the question whether he/she has sustainability preferences, the insurance undertaking or insurance intermediary should assess whether those preferences are still met when conducting a periodic assessment of suitability or whether the sustainability preferences have changed, and issue appropriate recommendations.

21. For a customer who, at the initial suitability assessment, replied negatively to the question regarding whether he/she has sustainability preferences, the insurance undertaking or insurance intermediary should assess whether this has changed on the occasion of the customer providing updated personal information or at the time of a regular periodic assessment, and should that be the case, identify what are the sustainability preferences of the customer and issue appropriate recommendations.

22. When the product invested in does not match the customer’s updated sustainability preferences, the insurance undertaking or insurance intermediary should inform the customer thereof, evaluate the impact of this change and make a new recommendation.

Guideline 4 – Collection of information on the sustainability features of insurance-based investment products

23. In addition to articles 8(2) and 10 (1) and (3) of Delegated Regulation 2017/2358, in order to obtain information on the sustainability features of insurance-based investment products, insurance undertakings and insurance intermediaries should use the sustainability-related information disclosed in the pre-contractual disclosures under Article 185 of the Solvency II Directive, as supplemented by Regulation (EU) 2019/2088, and website disclosures as required under Regulation (EU) 2019/2088.

24. For all insurance-based investment products, including those with a long-term insurance-based investment products, for example with a recommended holding period of 20-30 years, where the asset allocation may change over time, the features of the product disclosed in the pre-contractual product disclosures under Article 185 of the Solvency II Directive represent sufficient information, as the disclosed minimum share of sustainable investments and environmentally sustainable investments in the pre-contractual disclosures under Solvency II Directive represents a commitment that should be maintained at all times by the insurance undertaking.

25. Between 2 August 2022 and 31 December 2022, in order to assess whether an insurance-based investment product matches the sustainability preference of a customer under point a) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359 with regards climate-change objectives, insurance undertakings and insurance intermediaries should use the information describing the environmentally sustainable investments of the financial product disclosed in the pre-contractual disclosures under Article 185 of the Solvency II Directive, as amended by Regulation (EU) 2019/2088 and website disclosures as required under Regulation (EU) 2019/2088.

26. As of 1 January 2023, in order to assess whether an insurance-based investment product matches the sustainability preference of a customer under point a) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, insurance undertakings and insurance intermediaries should use the information describing and illustrating the taxonomy-alignment of the insurance-based investment product disclosed in the pre-contractual disclosure of the product disclosed under the section “To what minimum extent are sustainable investments with an environmental objective aligned with the EU Taxonomy?” in the Annex to the information provided to the customer in accordance with Article 185(2) of the Solvency II Directive, as supplemented by Commission Delegated Regulation of 6.4.2022 [number xxxx] supplementing Regulation (EU) 2019/2088. Where the customer opted for a Taxonomy-alignment of all investments of the insurance-based investment product, the insurance undertaking or insurance intermediary should use the KPI that includes all investments of the financial product (KPI 1) to assess whether the insurance-based investment product matches the preferences of the customer. Where the customer opted for a Taxonomy-alignment limited to the assets that are not government bonds, the insurance undertaking or

insurance intermediary should use the KPI that excludes government bonds (KPI 2) to assess whether the insurance-based investment product matches the preferences of the customer.

27. Between 2 August 2022 and 31 December 2022 (see illustration in Figure 2 in Annex I), in order to assess whether an insurance-based investment product matches the sustainability preferences of a customer under point b) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, insurance undertakings and insurance intermediaries should use the information describing the proportion of sustainable investments of the financial product disclosed in the pre-contractual disclosures under Article 185 of the Solvency II Directive, as amended by Regulation (EU) 2019/2088 and website disclosures as required under Regulation (EU) 2019/2088.

28. As of 1 January 2023 (see illustration in Figure 2 in Annex I), in order to assess whether an insurance-based investment product matches the sustainability preferences of a customer under point b) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, insurance undertakings and insurance intermediaries should use the information describing the minimum proportion of sustainable investments disclosed in the Annex to the information provided to the customer in accordance with Article 185(2) of the Solvency II Directive, including in the section on "What is the asset allocation planned for this financial product?", in accordance with Commission Delegated Regulation of 6.4.2022 [number xxxx] supplementing Regulation (EU) 2019/2088.

29. Between 2 August 2022 and 31 December 2022 (see illustration in Figure 2 in Annex I), in order to assess whether an insurance-based investment product matches the sustainability preferences of a customer under point c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, insurance undertakings and insurance intermediaries should use the information disclosed in the pre-contractual disclosures under Article 185 of the Solvency II Directive, as amended by Regulation (EU) 2019/2088 and website disclosures as required under Regulation (EU) 2019/2088.

30. As of 1 January 2023 (see illustration in Figure 2 in Annex I), in order to assess whether an insurance-based investment product matches the sustainability preference of a customer under point c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, the insurance undertaking or insurance intermediary should use the information disclosed under the section on "Does this financial product consider principal adverse impacts on sustainability factors?" in the Annex to the information provided to the customer in accordance with Article 185(2) of the Solvency II Directive, as supplemented by Commission Delegated Regulation of 6.4.2022 [number xxxx] supplementing Regulation (EU) 2019/2088.

31. When considering the sustainability factors of products in view of the subsequent matching with the customer's sustainability preferences, insurance undertakings and insurance intermediaries may, for example, rank and group the insurance-based investment products included in their product range in terms of: i) the proportion invested in economic activities that qualify as

environmentally sustainable, as defined in point (1) of Article 2 of Regulation (EU) 2020/852; ii) the proportion of sustainable investments, as defined in point (17) of Article 2 of Regulation (EU) 2019/2088; iii) the consideration of PAI. Grouping of financial instruments for the purpose of the suitability assessment should not replace the collection of information from customers.

32. For MOPs, in order to assess the minimum proportion of environmentally sustainable investments or sustainable investments and the consideration of PAI by the insurance-based investment product, insurance undertakings and insurance intermediaries should:

- with regard to the sustainability preferences of the customer under points a) and b) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, assess whether the weighted (per premiums) average of minimum proportion of environmentally sustainable investments or sustainable investments in the selected underlying options of the multi-option product matches the minimum proportion expressed by the customer.

- with regard to the sustainability preferences of the customer under point (c) of Article 2(4) of Commission Delegated Regulation (EU) 2017/2359, ensure that at least one of the selected underlying options considers principal adverse impacts during the duration of the contract and, in all cases, take into account the sustainability preferences determined by the customer in accordance to point 10..

Guideline 5 - Arrangements for ensuring the suitability of an insurance-based investment product

33. Sustainability preferences should only be assessed once the suitability has been assessed in accordance with the criteria of knowledge and experience, financial situation and other investment objectives. Once the range of suitable products has been identified following the suitability assessment, in a second step the insurance-based investment product that fulfils all the customer's preferences, including the sustainability preferences, should be chosen among the ones identified in the first step (see illustration in Figure 3 in Annex I).

34. Insurance undertakings and insurance intermediaries should not exert pressure on the customer to adapt the sustainability preferences. Notwithstanding this, in case the assessment results in no products matching the sustainability preferences of the customer, the customer should be informed that he/she can adapt the sustainability preferences. When a product does not meet the initial sustainability preferences of the customer, an insurance undertakings or insurance intermediaries should only recommend it once the customer has adapted his/her sustainability preferences (see illustration in Figure 4 in Annex I). The explanation for resorting to such possibility as well as the customer's decision should be documented in the suitability statement.

35. Where a customer answers that they do have sustainability preferences, but despite the questioning of the insurance undertaking or insurance intermediary (see paragraph 13 and 14) was unable to specify a preference with regard to any of the specific aspects as set out in points a) to c) or with regard to a minimum proportion as mentioned in points a) and b) of Article 2(4) of Commission Delegated Regulation 2017/2359, the insurance undertaking or insurance intermediary can still recommend an insurance-based investment product that has sustainability features matching the customer's preferences as best as possible, taking into account the sustainability preferences as expressed by the customer in general terms (see illustration in Figure 4 in Annex I). In that case, the insurance undertakings and insurance intermediaries should record in a suitability statement:

a) the description of the sustainability preferences of the customer even if in broad or general terms;
b) the fact that even though the customer has sustainability preferences, he/she has not specified a preference with regard to any aspect(s); and if a recommendation of an insurance-based investment product is made based on the customer's sustainability preferences, the reasons underlying that recommendation.

Guideline 6 – Compliance with the record-keeping requirements

36. Insurance undertakings and insurance intermediaries providing advice on insurance-based investment products are required to keep records of all relevant information about the situations where a customer's sustainability preferences are adapted in accordance with Article 9(6) of Commission Delegated Regulation (EU) 2017/2359, including a clear explanation of the reasons for such adaptation.

Guideline 7 – Competences of employees of insurance undertakings and insurance intermediaries in order to assess the sustainability preferences of customers

37. Employees of insurance undertakings and insurance intermediaries providing advice on insurance-based investment products should possess the necessary knowledge and competence with regard to the criteria of the sustainability preferences as defined in Article 2(4) of Commission Delegated Regulation (EU) 2017/2359 and should be able to explain to customers the different aspects in a language that is clear, succinct, comprehensible and not misleading.

38. In general, employees of insurance undertakings and insurance intermediaries should possess basic knowledge and competences with regard to the criteria of the sustainability preferences, while employees of insurance undertakings and insurance intermediaries offering insurance-based investment products that promote environmental or social characteristics or that have a sustainable

investment objective should have a more detailed knowledge and competence, in accordance with the nature of products they provide advice on. To that effect, insurance undertakings and insurance intermediaries should ensure that employees are appropriately trained.

Compliance and Reporting Rules

39. This document contains guidelines issued under Article 16 of Regulation (EU) No 1094/2010. In accordance with Article 16(3) of that Regulation, competent authorities and financial institutions are required to make every effort to comply with guidelines and recommendations.

40. Competent authorities that comply or intend to comply with these Guidelines should incorporate them into their regulatory or supervisory framework in an appropriate manner.

41. Competent authorities are to confirm to EIOPA whether they comply or intend to comply with these Guidelines, with reasons for non-compliance, within two months after the issuance of the translated versions.

42. In the absence of a response by this deadline, competent authorities will be considered as non-compliant to the reporting and reported as such.

Final provision on review

44. These Guidelines will be subject to a review by EIOPA.

QUESTIONS TO STAKEHOLDERS

Q1. Do you have any general comments regarding EIOPA proposed approach?

Q2. Guideline 1 – Do you agree that insurance undertakings and insurance intermediaries should explain the purpose of the sustainability part of the suitability assessment and its scope as proposed by EIOPA or do you believe that the information requirement should be expanded further, and if yes, how?

Q3. Guideline 2 – Do you consider that insurance undertakings and insurance intermediaries should collect information on sustainability preferences as the last element within the collection of information on investment objectives?

Q4. Guideline 2 – Consistently with the text of article 2(4) of Commission Delegated Regulation 2017/2359, as amended by Commission Delegated Regulation (EU) 2021/1257, EIOPA proposes to collect the information on the minimum proportion for aspects defined in points

a) and b) of Article 2(4) of Commission Delegated Regulation 2017/2359 from the customer in terms of percentages or shares. Do you agree with this approach?

Q5. Guideline 2 – EIOPA proposes that insurance undertakings and insurance intermediaries should collect information on whether the customer choses the Taxonomy alignment based on all investment of the insurance-based investment product or only based on those assets that are not government bonds, due to the existing limitations to screen taxonomy-alignment of government bonds. Do you agree with this approach?

Q6. Guideline 2 – When the customer does not determine a specific "minimum proportion" for aspects a) and b), EIOPA proposes that insurance undertakings and insurance intermediaries could guide the customer by providing standardised minimum proportions to help the customer in determining a minimum proportion. Do you believe that the guidelines should specify how granular should be such standardised minimum proportions?

Q7. Guideline 2 – Do you agree with the suggested approach where customers answer that they do have sustainability preferences, but do not state a preference with regard to any of the specific aspects mentioned under a) to c) or with regard to a minimum proportion with regard to points a) and b) of Article 2(4) of Commission Delegated Regulation 2017/2359, as amended? If yes, do you believe that the supporting guideline should be more prescriptive with regard to the procedures insurance undertakings and insurance intermediaries should adopt in the case where a customer does not determine specific sustainability preferences?

Q8. Guideline 2 – Do you consider that further guidance is needed to clarify how insurance undertakings and insurance intermediaries should collect information on the customer's sustainability preferences?

Q9. Guideline 3 – Do you agree with the approach with regard to the periodic assessment?

Q10. Guideline 4 – EIOPA provides guidance on how to use the SFDR disclosures under Solvency II Directive to assess whether an insurance-based investment product matches the sustainability preferences of the customer in order to make a personal recommendation. Do you agree with the approach?

Q11. Guideline 4 – For multi-option products, EIOPA provides guidance on how to assess whether an insurance-based investment product matches the sustainability preferences of the customer in order to make a personal recommendation. Do you agree with the approach?

Q12. Guideline 5 – Do you agree with the approach outlined with regard to the situation where the customer makes use of the possibility to adapt the sustainability preferences?

Q13. Guideline 6 – Do you agree with the guidance regarding to the arrangements necessary to ensure compliance with the record-keeping requirements or do you believe that further guidance on this aspect should be needed?

Q14. Guideline 7 – Do you agree with the guidance regarding to the qualification of employees of an insurance undertaking or insurance intermediary employees or do you believe that further guidance on this aspect should be needed?

Q15. What level of resources would be required to implement and comply with the guidelines (organisational, IT costs, training costs, employee costs, etc., differentiated between one off and ongoing costs)? When answering this question, please also provide information about the size, internal organisation and the nature, scale and complexity of the activities of your institution, where relevant.

ANNEX I. FIGURES

Figure 1 – Guideline 2: The two KPIs from Solvency II disclosures as amended by SFDR to be shown to the customer

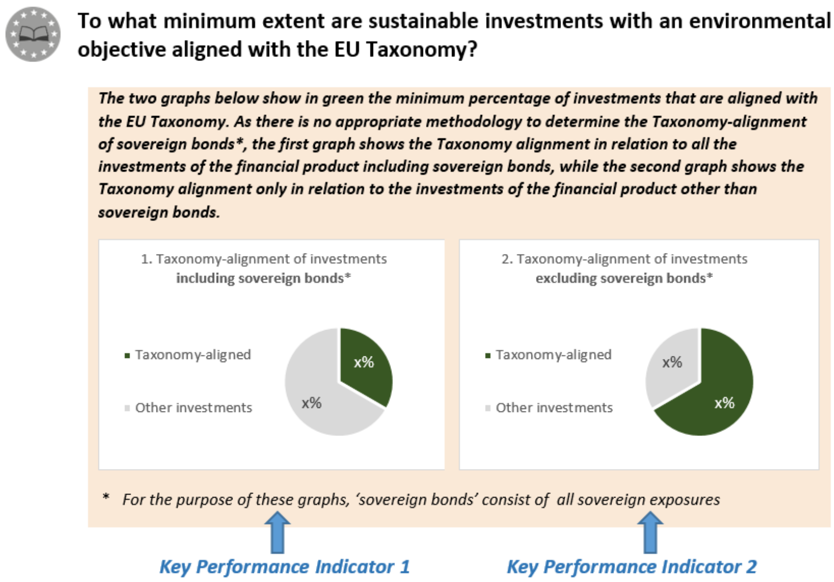


Figure 2 – Guideline 4: SFDR disclosures to be used to assess whether an IBIP matches the customer's preferences

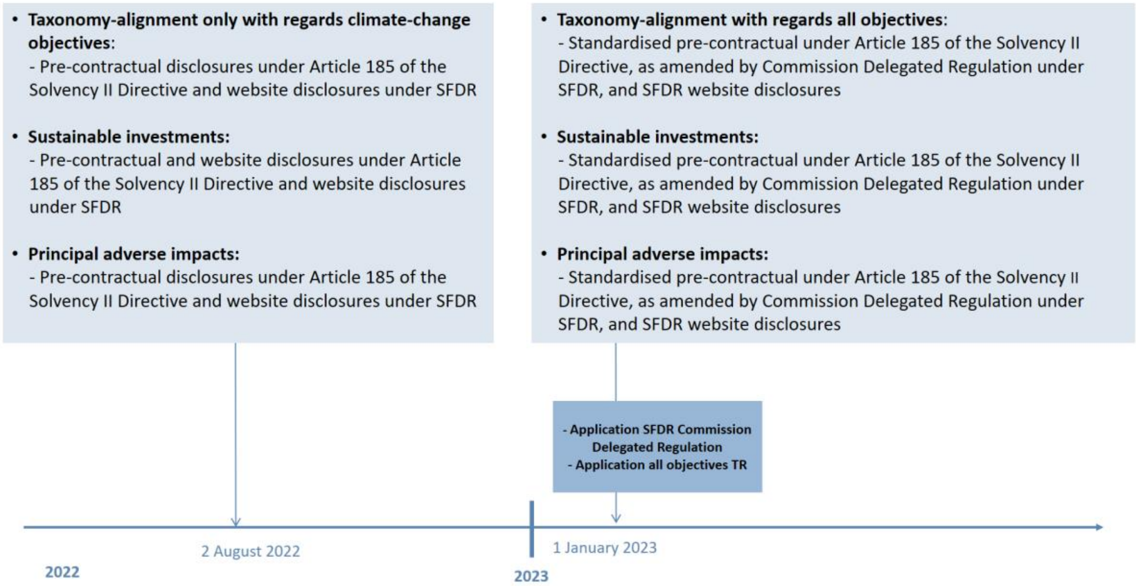


Figure 3 – Guideline 5: Two-step process to assess the suitability of an IBIP

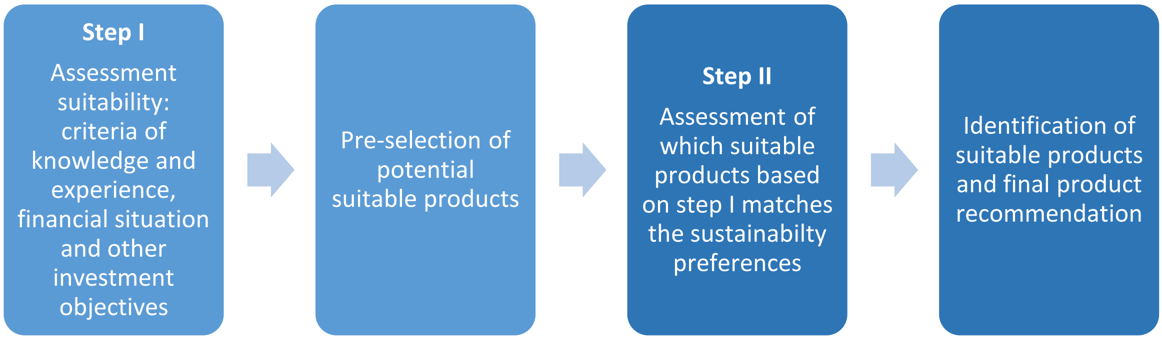
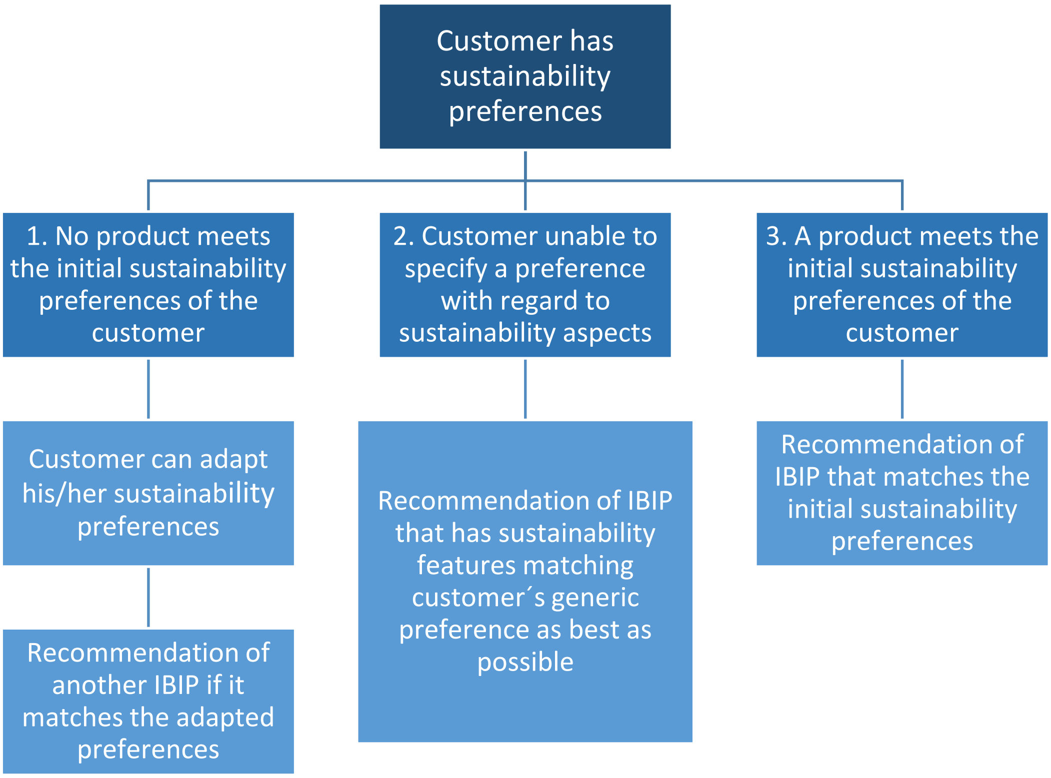


Figure 4 - Guideline 5: Possibilities when customer has sustainability preferences



ANNEX II. IMPACT ASSESSMENT

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1. According to Article 16 of the EIOPA Regulation, EIOPA conducts analysis of costs and benefits in the policy development process. The analysis of costs and benefits is undertaken according to an Impact Assessment methodology.

2. The present consultation paper aims at collecting feedback from stakeholders on the EIOPA proposals. A public hearing will be held on 6 May 2022.

2. PROBLEM DEFINITION

3. The suitability requirements are an essential element to ensure consumer protection within the distribution of insurance-based investment products.

4. The new requirements introduced by the Commission Delegated Regulation (EU) 2021/1257 are considered a "top-up" to the existing suitability requirements. This means that in addition to the existing elements of the suitability assessment, the customer should be asked on whether it has sustainability preferences and if he has such preferences, on which sustainability aspects, and these preferences should be taken into account by the insurance undertaking or insurance intermediary.

5. When analysing the impact from proposed policies, the impact assessment methodology foresees that a baseline scenario is applied as the basis for comparing policy options. This helps to identify the incremental impact of each policy option considered. The aim of the baseline scenario is to explain how the current situation is expected to evolve without additional regulatory intervention.

6. For the analysis of the potential related costs and benefits of the proposed Guidelines, EIOPA has applied as a baseline scenario the effect from the application of the Commission Delegated Regulation (EU) 2021/1257), where insurance undertakings and insurance intermediaries providing advice on insurance-based investment products (IBIPs) have to prepare for the application of the new requirements introduced by the Commission Delegated Regulation (EU) 2021/1257 without further guidance.

7. The Commission Delegated Regulation (EU) 2021/1257 requirements cross-refer to Regulation (EU) 2020/852 (the Taxonomy Regulation) and Regulation (EU) 2019/2088 (the SFDR). Due to the level of complexity resulting from the cross-references, there is a risk that national competent authorities might have divergent views with regard to the supervision of the application of these provisions, also in a cross-border context.

8. In addition, the complexity and the lack of reliable ESG data - which is expected to improve, also through the application of the Corporate Sustainability Reporting Directive and the EU green bond standard - might create particular challenges for insurance undertakings and insurance intermediaries providing advice on IBIPs in understanding the scope of the new requirements as they would need to properly understand the Taxonomy Regulation and the SFDR, including the technical terminology, in order to provide suitable advice to consumer on IBIP which match the sustainability preferences of customers. This scenario may represent an increase in the liability risk of said distributors. In addition, there may be some aspects arising from the interaction between the provisions of the IDD and of the Delegated Regulation that could be perceived as creating a potential liability risk for insurance intermediaries.

9. Due to this complexity and the potential limited understanding of sustainable IBIPs among insurance undertaking or insurance intermediary providing advice on IBIPs, there is a potential for heightened mis-selling of IBIPs with regard to the sustainability preferences of consumers.

10. This is problematic as well for customers as behavioural science shows that consumers trust the advisors, partially due to the product complexity and information asymmetries. One of the behavioural biases is that the personality traits influence the perception of advisor's trustworthiness.

11. In addition insurance undertaking or insurance intermediary providing advice on IBIPs might apply the rules in different ways.

OBJECTIVE PURSUED

1. In order to resolve the problems identified above, these draft guidelines aim to ensure a common, uniform and consistent implementation of the IDD requirements as recently amended in order to integrate customer's preferences in terms of sustainability as a 'top up' to the suitability assessment.

2. By providing clarification of the new IDD suitability requirements on sustainability, EIOPA aims to provide guidance both for NCAs and market participants on the practical application of the requirements to integrate sustainability-related provisions in the insurance distribution process.

3. The overarching goals to be achieved by developing such guidance are (i) to promote a better understanding of the new provisions entering into effect by the industry, ensuring there is no confusion when the rules start applying on 2 August 2022, and help to promote a more coherent application by insurance undertakings and insurance intermediaries across Member States, (ii) to promote a more convergent approach by NCAs in terms of supervision of insurance distributors. Greater convergence leads to improved consumer protection, which is a key EIOPA objective.

4. In light of the main objectives of the draft Guidelines, the following preliminary impact assessment aims at explaining the expected benefits and costs of the key policy choices that are presented for consultation.

POLICY ISSUES AND OPTIONS

1. It should be noted that since the requirements on the suitability assessment are provided under Directive 2016/97 (the IDD) and Commission Delegated Regulation (EU) 2017/2359, the impact of the proposed Guidelines should be considered having in mind those legal provisions that they support. Hence with reference to the costs, it should be firstly reminded that the key aspects of the suitability assessment have remained unchanged.

2. EIOPA has identified one policy issue, which is **the prevention of mis-selling and greenwashing in the suitability assessment.** To address this risk, EIOPA considered different options. The following options have been considered, with the preferred option marked in bold:

   1. Provide high-level principles to collect information from customers and how to match IBIPs to the customer preferences in order to ensure an effective personal recommendation in the suitability assessment;

   2. Clarify how insurance undertakings and insurance intermediaries should collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences in order to ensure an effective personal recommendation in the suitability assessment, without guidance on how to use the pre-contractual disclosures of Solvency II (as supplemented by the SFDR);

   3. **Clarify how insurance undertakings and insurance intermediaries should collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences in order to ensure an effective personal recommendation in the suitability assessment, with specific guidance based on the pre-contractual disclosures of Solvency II (as supplemented by the SFDR).**

Option 1: High-level principles on how to collect information from customers and IBIPs

This policy option consist of limiting the guidance to insurance undertakings and insurance intermediaries as well as national competent authorities to defining high-level principles for the collection of information from customers regarding IBIPs.

Policy Option 1: Provide high-level principles to collect information from customers and how to match IBIPs to the customer preferences in order to ensure an effective personal recommendation in the suitability assessment		
Stakeholder groups	**Benefits**	**Costs**
Competent authorities	Limited reduction of risks linked to regulatory or supervisory arbitrage due to an increased degree of harmonisation and more consistent supervisory convergence	• Difficulty to assess whether insurance undertakings and insurance intermediaries comply with the rules and low comparability of insurance undertakings and insurance intermediaries policies and procedures • Less supervisory convergence across the EU
Insurance undertakings and insurance intermediaries providing advice on IBIPs	• More flexibility possible, for example to tailor the requirements • Lower compliance costs	• Some risk of complaints, costs of appeals and legal expenditure for tribunal cases, lack of reputation, fines, etc. • Lower risk of compliance costs as rules can be applied with less granularity • Limited positive effect from the limited harmonisation and standardisation of the processes that insurance undertakings and insurance intermediaries providing advice on IBIPs have to put in place when

		implementing the new IDD suitability provisions • Higher risk of mis-selling in the distribution of sustainable investment products.
Consumers		• Higher risk of mis-selling and greenwashing. • Limited trust and confidence in the industry, due to possibly different interpretation of the guidelines • Low understanding of the options to invest in a sustainable way

Option 2: Clarify how to collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences without referring to the SFDR

This policy option consist in providing granular guidance to insurance undertakings and insurance intermediaries as well as national competent authorities on how to collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences without referring to the SFDR.

Policy Option 2: Clarify how insurance undertakings and insurance intermediaries should collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences in order to ensure an effective personal recommendation in the suitability assessment, without guidance on how to use the pre-contractual disclosures of Solvency II (as supplemented by the SFDR)		
Stakeholder groups	**Benefits**	**Costs**
Competent authorities	• Some reduction of risks linked to regulatory or supervisory arbitrage due	Direct cost of establishing processes for supervision of compliance with these

	to an increased degree of harmonisation and more consistent supervisory convergence • Some positive effects from improved harmonisation and standardisation for competent authorities on the costs and activities needed to implement the new supervisory processes related to the assessment of suitability • Easier to assess whether insurance undertakings and insurance intermediaries comply with the rules and high comparability of insurance undertakings and insurance intermediaries policies and procedures	Guidelines which is expected to be low in relation to their current cost, as many supervisory authorities have already incurred the majority of costs to implement the IDD.
Insurance undertakings and insurance intermediaries providing advice on IBIPs	• Some reduction of the mis-selling risk and its related financial consequences. • Limited effects from improved harmonisation and standardisation of the processes that insurance undertakings and insurance intermediaries providing advice on IBIPs have to put in place when implementing the new IDD suitability provisions	• Some risk of complaints, costs of appeals and legal expenditure for tribunal cases, lack of reputation, fines, etc. in particular that it might not be clear how to collect the IBIP information to match the sustainability preferences of customers • Some compliance costs however limited for those that already have arrangements to comply with the existing IDD

	• Reduced risk of mis-selling in the distribution of sustainable investment products.	provisions. Main costs relate to the implementation of the guidelines are linked to: • Costs linked to the update and review of the existing procedural and organisational arrangements (e.g. the review and/or the update of the questionnaires and of the algorithms and models used to match the customer's profile with suitable IBIPs); • Initial and ongoing IT costs; and relevant organisational and HR costs linked to the implementation of the guidelines providing clarifications on the qualification of insurance undertakings and insurance intermediaries' employees.
Consumers	• Lower risk of mis-selling and greenwashing. • Higher understanding of the options to invest in a sustainable way	

Option 3: Clarify how to collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences based on the SFDR

This policy option consist in providing granular guidance to insurance undertakings and insurance intermediaries as well as national competent authorities on how to collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences including references to the SFDR.

Policy Option 3: Clarify how insurance undertakings and insurance intermediaries should collect information from customers and what IBIP information should be used to assess whether it matches the customer preferences in order to ensure an effective personal recommendation in the suitability assessment, with specific guidance based on the pre-contractual disclosures of Solvency II (as supplemented by the SFDR)		
Stakeholder groups	**Benefits**	**Costs**
Competent authorities	• High supervisory convergence across the EU • Allows for comparability between insurance undertakings and insurance intermediaries providing advice on IBIPs which facilitates conducting comparative assessments in supervisory actions • High level of reduction of risks linked to regulatory or supervisory arbitrage due to an increased degree of harmonisation and more consistent supervisory convergence; • Positive effects from improved harmonisation and standardisation for competent authorities on the costs and activities needed to implement the new supervisory	• Limited flexibility to make adjustments • Direct cost of establishing processes for supervision of compliance with these Guidelines which is expected to be low in relation to their current cost, as many supervisory authorities have already incurred the majority of costs to implement the IDD.

	processes related to the assessment of suitability;	
Insurance undertakings and insurance intermediaries providing advice on IBIPs	• High level of reduction of the mis-selling risk and its related financial consequences. This is a major benefit for investors and for the financial markets as whole. In particular, firms will benefit from the reduction of complaints, costs of appeals and legal expenditure for tribunal cases, lack of reputation, fines, etc. • Positive effects from improved harmonisation and standardisation of the processes that insurance undertakings and insurance intermediaries providing advice on IBIPs have to put in place when implementing the new IDD suitability provisions. • Avoid mis-selling in the distribution of sustainable investment products.	• Some compliance costs however limited for those that already have arrangements to comply with the existing IDD provisions. Main costs relate to the implementation of the guidelines are linked to: ○ costs linked to the update and review of the existing procedural and organisational arrangements (e.g. the review and/or the update of the questionnaires and of the algorithms and models used to match the customer's profile with suitable IBIPs); ○ initial and ongoing IT costs; and ○ relevant organisational and HR costs linked to the implementation of the Guidelines providing clarifications on the qualification of insurance undertakings and insurance intermediaries employees.

Consumers	• Low risk of mis-selling and greenwashing • Higher understanding of the options to invest in a sustainable way	

CONCLUSIONS

3. EIOPA has considered three policy options (1, 2 and 3) to address the policy issue.

4. EIOPA believes that Option 3 provides the most cost-efficient solution to achieving the general objectives of these Guidelines. While insurance undertakings and insurance intermediaries will likely incur certain costs for implementing these guidelines, they will also benefit from the increased legal certainty and the harmonised application of the requirements across Member States. Consumers would in turn benefit from an improved compatibility between insurance-based investment products. The proposed guidelines should also facilitate competent authorities' efforts to improve the overall compliance with IDD requirements increasing the consumers' confidence in the insurance markets, which is considered necessary for the establishment of a genuine single capital market.

5. In light of what has been illustrated above, EIOPA believes that the overall (compliance) costs associated with implementation of the new rules on the suitability assessment (which includes the proposed guidelines) will be fully compensated by the benefits from the improved effectiveness of the suitability assessment with regard to sustainability aspects.

6. EIOPA also considers that the proposed Guidelines are able to achieve an increased level of harmonisation in the interpretation and application of the suitability requirements across Member States, minimising the potential adverse impact on insurance undertakings and insurance intermediaries linked to compliance costs and will have a key role in the broader Commission's initiative on sustainable development. These benefits will outweigh all associated costs in respect of these guidelines.

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