

Comments on JC Consultation Paper on guidelines for cross-selling practices

General

Allianz welcomes the opportunity to comment on the ESAs Joint Committee Consultation Paper on the proposal for Guidelines for cross-selling practices. Allianz recognizes the importance of dialogue on the challenges consumers may face from joint purchases of different products or services (i.e. cross-selling).

Allianz also welcomes the recognition by the Joint Committee that the exact same issue is currently under discussion in Level 1 negotiations of IMD2/IDD (see Art. 21 of IMD2/IDD). Materially, this means that the legal foundation and substance of the requirements may shift in the very near future. The approach is cause for further concern, since the proposal can be perceived to inappropriately pre-empt the ongoing legislative discussions and may also need revision if the ultimate IMD2 rules differ from current working assumptions. Before the adoption of IMD2/IDD, the ESA mandate for these guidelines is not clear, in particular for insurance products.

In consequence, Allianz is not convinced that the ESAs Joint Committee Guidelines for cross-selling practices are the right instruments at the right time.

Question 1: Do you agree with the general description of what constitutes the practice of cross-selling?

Several points deserve special mentioning:

Firstly, the scope of application should be clarified. In particular, it should be made clear which products or combinations should be in scope. We understand and support the idea that the rules in the guidelines are primarily targeted at cross-selling of financial products (see number 4 on page 10).

Secondly, it should be clarified that the combination of different insurance risks in a single policy (multi-risk policies) should not be considered cross-selling. The forced and artificial separation of certain risks of multi-policies could cause unintended detrimental developments for customers, including in particular higher costs and adverse selection. We understand that the CP acknowledges the legitimate existence of such multi-risk policies (see footnote 7 on page 19) but the application may be qualified by the limitation to “certain” multi-risk policies without further specification. We agree with and support a clearer explicit permission as suggested in the IMD2/IDD proposals by EP and Council (EP: see Art. 21 (1) and Art. 2 (20) and Council: Art. 21 (4) and recital (41) also included in Appendix 1 of the CP).

Thirdly, separate disclosure of the aspects of the components should only be constituted if the components are sold separately. By contrast, it would be inadequate and disproportionate to implement a disclosure requirement that does not add relevant information for the purchase decision but adds to the complexity, e.g. by requiring artificial cost attributions or allocations. In addition, no rule should require disclosure of competitors' offers.

Fourthly, the need for a distinction between tying and bundling (see definitions on page 21 of CP) is not clear given disclosure requirements should primarily follow relevant customer information needs. We support the current IMD2/IDD proposals by EP and Council which have also eliminated this distinction.

Question 2: Do you agree with the identified potential benefits of cross-selling practices?

Yes. Cross-selling has several potential advantages for customers, particularly including cost benefits and avoidance of coverage gaps.

For insurance in particular, the combination of several risks under one policy (multiple risk policies) in many cases greatly helps to strongly mitigate adverse selection, especially in pooling of certain natural disaster risks with standard covers. This clearly promotes availability and affordability of such covers for a much broader customer base.

Question 3: Do you agree with the identified potential detriment associated with cross-selling practices?

Allianz agrees that many the practices named in the CP may cause detriment to consumers. On the other hand, there are certain components which may even cause beneficial consequences for customers. For example, a customer commitment to long contract durations (see para 10 and para 11 on page 13) is presented as detrimental. In many cases the opposite may be true: long contract durations (and effective exit barriers) can be beneficial for customers by promoting discipline in saving instead of myopic excess consumption, e.g. for pension products. In addition, many the behavioural drivers mentioned are not exclusive for cross-selling.

In consequence, an adequate assessment of potential detriment cannot rely on simplistic rules must take into account the specifics of the situation.

Question 4: Please comment on each of the five examples above, clearly indicating the number of the example to which your comment(s) relate.

The general principles behind the examples can easily be understood and applied to many product categories. We are concerned, however, that several of the examples mentioned do not adequately take into account the particular character of insurance products.

Example 1 underscores the benefits for the packaging of products: Allianz agrees that two components bundled together generally should be cheaper than the components sold separately. This benefit not just arises from cost benefits but for insurance products it also results from the avoidance of adverse selection on the single components. However, in the evaluation, the whole offering should be taken into account, e.g. including all services not just pure covers.

Example 3 should generally be viewed in the light of the specific product and contractual arrangement. For example, this rule should not be interpreted as a general obligation to return a part of the premium for all components pro rata temporis. For an assessment of refund adequacy at least the effective distribution of risks over time should be taken into

account. In addition, refunds should generally be governed by explicit contractual agreements.

Example 4 is framed as avoidance of a mobility detriment. While disproportionate early termination charges are acceptable, this is no specific cross-selling issue. Regarding the partial termination of a package, adverse selection needs to be avoided. In particular, the risk-based adaptation of the price for the remaining component should not be construed as a disproportionate early termination charge.

Example 5 regarding “unwanted or unnecessary products” is not generally appropriately applicable to insurance products, since it potentially includes all possible overlaps in insurance coverage. The categorical obligation to avoid such overlaps in itself may have several detrimental aspects for the customer: Firstly, an overlap may be difficult or even impossible to identify, since coverage may be defined in various different dimensions (e.g. by cause or by impact). Secondly, the attempt to avoid each and every overlap by modifying a cover (instead of acceptance of smaller overlaps) may be prohibitively costly. Therefore, limited overlaps should be permissible based on a comprehensive perspective on the overall coverage and the acceptable thresholds of materiality for unwanted overlaps.

Question 5: Please comment on the proposed guidelines 1 and 5 as well as the corresponding examples, stating clearly in your response the guideline paragraph number to which your comment relates.

Guideline 1:

Para 13 (page 22): The requirement seems to contain the obligation to provide the consumer with the price for both the overall package of products and for each of the component products, irrespective of whether the component products are available for sale separately or not.

This is disproportionate on several accounts:

Firstly, the artificial allocation of costs to components for tied products is costly (with costs ultimately borne by the customer) and ambiguous. This is especially true, since a tied (insurance) product may be much cheaper than the sum of hypothetical components for several reasons, including avoidance of adverse selection.

Secondly, since the fictitious separation of price disclosure is not truly relevant for customer decision making, it may cause more confusion than clarity by giving the customer the wrong impression of a separate availability.

Thirdly, this also exceeds all Level 1 proposals on cross-selling (e.g. IMD2, MiFID II, Payment Accounts Directive).

In consequence, separate disclosures should only be required for separately available products or components.

Para 14 (page 22): Cost disclosure

For insurance products, the cost disclosure requirements should not exceed the general cost disclosure requirements in IMD2/IDD. In many insurance products, the offer itself (incl. cover and services) and price of this offer are the most relevant indicators for performance. This is especially true in general insurance. Additional cost disclosure may distract customer attention from these most relevant performance characteristics. It is not clear, why cost disclosure should exceed general disclosure standards for cross-selling.

Guideline 5 (para 19, page 24):

The additional requirements to disclose “all relevant information” including “information on how the risks are modified as a result of purchasing the bundled package” is problematic in an insurance context, e.g. compared with the portfolio context of an investment product. In particular, packaging may lead to the avoidance to adverse selection effects, thereby substantially reducing the price compared with single components. It is not clear, which risk interactions would have to be disclosed in this regard and how this disclosure could work. In Allianz’ view this ambiguous rule should be avoided in favour of the general disclosure rule regarding all relevant aspects.

Question 6: Please comment on the proposed guidelines 2, 3, 4 and 6 as well as the corresponding examples, stating clearly in your response the guideline paragraph number to which your comment relates.

Guideline 2 (para 15, page 23) contains the provision that all relevant costs of the package and its components should be made available in good time before conclusion of the product. It should be made clear that this refers to the price and potential additional costs, and is no obligation to provide the consumer with a detailed cost breakdown of price / premium itself. As stated in the comment to Guideline 1 (para 14, see Question 5), such detailed information on costs could confuse customers rather than add relevant transparency, and would exceed the currently proposed rules for IMD2.

Question 7: Please comment on the proposed guideline 7 as well as the corresponding examples, stating clearly in your response the guideline paragraph number to which your comment relates.

Allianz fully supports the provision of clear information to consumers including full transparency about optionality of components. While in many (or even most) cases this may call for “opt-in” choices (i.e. setting the default option to “no”) it is not clear whether this is the best solution in all cases, especially if an explicit assessment of customer needs has been performed before the product selection. Any adequate rule on defaults should take this aspect into account.

Question 8: Please comment on the proposed guideline 8 as well as the corresponding examples, stating clearly in your response the guideline paragraph number to which your comment relates.

Allianz fully supports the assessment of demands and needs of customers with respect to products in line with the primary legislation (e.g. IMD2, MiFID II, etc.), which is adequately broad and holistic. In our understanding there is no specific need regarding specific requirements for demands and needs tests for cross-selling.

Question 9: Please comment on the proposed guidelines 9 and 10 as well as the corresponding examples, stating clearly in your response the guideline paragraph number to which your comment relates.

Guideline 9 (para 26, page 27) proposes to introduce requirements regarding adequate training for relevant staff. This is not necessary, especially since the issue of training is already adequately provided for under the relevant Level 1 acts (esp. IMD2/IDD for insurance).

Guideline 10 (para 27, page 27) proposes to introduce requirements regarding conflicts of interest in the remuneration structures of sales staff distributing tied or bundled packages. Requirements with regard to remuneration are currently being discussed and decided upon by the co-legislators (EP and Council), and will be included in the Level 1 text of IMD2/IDD and apply to the sale of all insurance products. Besides the unclear legal basis for such far-reaching interventions via EIOPA guidelines, it is not appropriate to introduce such provisions regarding remuneration structures specifically for cross-selling.

Question 10: Please comment on the proposed guideline 11 as well as the corresponding examples, stating clearly in your response the guideline paragraph number to which your comment relates.

With regard to the proposed customer right to a post-sale splitting of products that had been purchased as part of a package (para 29, page 28), it should be made very clear that this is not intended to enable consumers to circumvent the fact that they have purchased a package, especially if a beneficial price can only be offered in the package. In particular, a customer right to split a package (and cancel certain components) could lead to the same problems as any initial obligation to sell (and / or price) components separately, namely adverse selection.

Question 11: Please provide any specific evidence or data that would further inform the analysis of the likely cost and benefit impacts of the guidelines.

It is important, that any guidelines must be fully consistent with all relevant Level 1 texts. This is particularly challenging for IMD2/IDD, which is still in negotiation. Therefore any implementation should be withheld at least until adoption of IMD2/IDD and the relevant Level 2 acts, since any change in regime will cause additional costs for companies (after being passed on) and ultimately for customers.