Austrian Insurance Association (VVO)

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

The VVO welcomes the recognition in the consultation document that the final text of the Insurance Mediation Directive (IMD 2) waits to be finalised. However, from an operational point of view we would like to underline the need for consistency: the ESA Guidelines on cross-selling practices should not be replaced at a later point in time by another set of EIOPA Guidelines established on the grounds of the future IMD 2 provisions.

First and foremost it is important to recognise directly in the text of the Guidelines that insurance products which cover several risks are not to be considered as a package of combined products. The risk cover is part of one insurance policy (= no package) but in legal terms the cover of each risk constitutes a separate contract that can be terminated independently by the policyholder and the insurer after the occurrence of an insured event. In Annex 1, para 4 on the scope of the guidelines (page 19), it states that these guidelines are not intended to prevent the offering of products which constitute an inherent or indivisible package which cannot by its nature be offered or sold separately because the components are a fully integrated part of the package. However, footnote 7 refers only to “certain” multi-risk insurance policies, which is not fully aligned with the texts of the European Parliament and Council on IMD 2. We would welcome a clear recognition of this in the guidelines and to have a general reference to multi-risk insurance policies contained within the main text, rather than within a footnote.

In any case it should be pointed out unambiguously directly in the text of the guidelines, that according to both, the Council of the European Union (Recital 41 and Article 21 of the General Approach of 7 November 2014) and the European Parliament (Art 21a para 1 of the Amendments adopted on 26 February 2014) insurance policies which cover various types of risks (“multi-risk insurance policies”) are not considered to be cross-selling practices.

Secondly, in the interest of clarity we would strongly welcome the introduction of the term “financial” before products and services in the text of the Guidelines in order to comply with the ambition to address tying and bundling services in the financial sector. In contrast to the banking and securities sector the insurance sector is tying and bundling its products with a series of non-financial services such as telematics services with motor third party liability insurance and many others.

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

n.a.

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

n.a.

Question 4: Please comment on each of the five examples in paragraph 13, clearly indicating the number of the example to which your comment(s) relate.

n.a.

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.

The proposed text of Guideline 1 goes beyond the requirements set out on Level 1 (IMD 2), as it contains an 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 or not the component products are available for sale separately. It should be made clear in the guidelines that the obligation only applies when the components in the package are also offered or sold by the same provider separately.

The requirement to provide a clear breakdown and aggregation of all relevant costs associated with the purchase of the package and its component products (administration fees, transaction costs, exit/pre-payment penalty charges) conflicts with the Member States option on Level 1 (IMD 2) for disclosure requirements for non-life insurance products and the relevant ESA’s work on the breakdown and aggregation of costs in the context of

PRIIPs. Accordingly section 2 of Guideline 1 should be deleted.

Guideline 5 concerns the full disclosure of key information on non-price features and risks. However, the term "risk" might be misleading in the context of insurance. Insurance is taken out to provide cover against risk and thus has a very different meaning. Such references to risks are not appropriate in the context of insurance products, and may actually end up misleading or confusing the consumer. The reference to the provision of information on 'non-price features', on the other hand, could be relevant from an insurance perspective, as this may be a way of highlighting to consumers the benefits of the risk coverage offered by the insurance.

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.

The proposed text of Guidelines 2 - 4 and 6 goes beyond the requirements set out on Level 1 (IMD 2), as it contains an obligation to provide the consumer with all costs elements of the component products. Accordingly all cost-related requirements set out in Guidelines 2 - 4 and 6 should be deleted.

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.

We fully support a clear information to consumers on the 'optionality of purchase'. However, we also wish to point out the potential consumer detriment that may result from protection gaps or insufficient level of protection when forgetting to opt-in a certain risk cover.

Clarification should be introduced in the guidelines that the obligation on providers is to inform the customer about whether the different components are offered for sale separately by that same provider, ie there is no expectation on providers to have a full knowledge of all the different products that are available on the market in general.

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.

Guideline 8 deals with the assessment of demands and needs, and suitability/appropriateness. These requirements already result from Level 1 legislation (demands and the needs in IMD 1, suitability/appropriateness in the case of insurance-based investment products in IMD 2). We have serious concerns with duplicating Level 1 requirements on Level 3 in the context of 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 proposes to introduce requirements regarding adequate training for relevant staff. However, sellers of financial products are obliged to be registered under the relevant sectoral legislation. Meeting applicable training requirements is a prerequisite for registration. Dual training requirements for the sale of individual products and the sale of packages would not be appropriate. Care should be taken to avoid any potential situation under which the number of points of sale of financial products might inadvertently be reduced.

We understand Guideline 10 as a safeguard for equal treatment of tied/bundled products and stand-alone products. However, it should be underlined that remuneration rules will be ultimately set on Level 1 (IMD 2) and apply to the sale of all insurance products. The proposed guidelines should not address issues and requirements that are (or will be) addressed in sectoral specific legislation, particularly when these issues are not specific to cross-selling. It is therefore not appropriate for the guidelines to introduce provisions concerning remuneration structures for the specific case of cross-selling. As a result Guideline 10 should limit itself to stating that tied/bundled products and stand-alone products should be treated equally with regard to remuneration rules.

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.

We understand Guideline 11 on post-sale cancellation rights as a safeguard for equal treatment of tied/bundled products and stand-alone products. However, the contents of Guideline 11 should not be abused by customers as an instrument to circumvent the fact that they have purchased a package. Otherwise, consumers could, for

example, subsequently seek out cheaper products in order to replace one of the items in the package and continue to enjoy the beneficial rate of the remaining item, despite the fact that it is the very nature of the overall package that allows for the beneficial rate to be offered in the first place. As a result Guideline 11 should limit itself to stating that tied/bundled products and stand-alone products should be treated equally with regard to post-sale cancellation rights.

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.

Most importantly these guidelines need to be fully aligned and consistent with IMD 2, as each and every change to the legal regime causes additional costs to companies, which may ultimately end up being passed on to consumers.