



Consultation Paper on EIOPA Draft Guidelines on the integration of the customer's sustainability preferences in the suitability assessment under the Insurance Distribution Directive

Fields marked with * are mandatory.

1 Responding to the Consultation Paper

EIOPA welcomes comments on the Consultation Paper regarding its draft 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.

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.

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.

Data Protection

Please note that personal contact details (such as name of individuals, email addresses and phone numbers) will not be published. EIOPA, as a European Authority, will process any personal data in line with Regulation (EU) 2018/1725. More information on how personal data are treated can be found in the privacy statement at the end of this material. www.eiopa.europa.eu/privacy-statement_en

2 Remarks on completing this survey

Choice of internet browsers

Please use preferably Firefox or Chrome for best speed of the online survey whilst ensuring use of the latest version of the browser.

Saving a draft survey

After you start filling in responses to the survey there is a facility to save your answers.

HOWEVER, PLEASE NOTE THAT THE USE OF THE ONLINE SAVING FUNCTIONALITY IS AT THE USER'S OWN RISK.

As a result, it is strongly recommended to complete the online survey in one go (i.e. all at once).

Should you still proceed with saving your answers, the online tool will immediately generate and provide you with a new link from which you will be able to access your saved answers.

It is also recommended that you select the "Send this Link as Email" icon to send a copy of the weblink to your email - please take care of typing in your email address correctly. This procedure does not, however, guarantee that your answers will be successfully saved.

Uploading document(s)

In the last section of the survey, you can also share additional material by clicking on "Select file to upload". Several documents (e.g. Word, Excel, Pdf) can be uploaded. However, note that each document / file is limited to 1MB or less in size.

Printing the completed survey

You will have the possibility to print a pdf version of the final responses to the survey after submitting it by clicking on "Download PDF".

You will automatically receive an email with the pdf file. Do not forget to check your junk / spam mailbox.

Limit of characters for the answer of each question

There is a limit of 5,000 characters for the answer of each question, including spaces and line breaks. If

your answer exceeds the limit, you can upload your answer as additional material (see "Uploading document(s)" mentioned above).

3 About you

* Name of your organisation

Bund der Versicherten (BdV - German Association of Insured)

* Your first name

Christian

* Your surname

Guelich

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

Transparency register number

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* E-mail (this won't be published)

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* Your Member State

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czechia
- Denmark
- Estonia

- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- Other

* Publication privacy settings

- Anonymous** - Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.
- Public** - Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the personal data protection provisions

4 Survey on Consultation Paper regarding EIOPA guidelines on the integration of the customer's sustainability preferences in the suitability assessment under the Insurance Distribution Directive

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

We mostly agree with EIOPA's approach outlined in this consultation paper. On the one hand these guidelines clarify that sustainability is an additional crucial investment criteria which has to be taken into consideration as well by insurers and distributors as by policyholders during the advice and sales process. On the other hand it must be stressed that the initial financial objectives of policyholders, as well as biometric risk coverage as return and pension adequacy (based on the appropriate risk tolerance) have to be taken into consideration at the same level of importance and first. Therefore we strongly welcome EIOPA's proposal of the two-step process to assess the suitability of the insurance-based investment product. With regard to the "sustainability preferences" of the policyholder (the initial questioning and the necessary information about them) we support EIOPA's "layered" approach presented by these guidelines as well balanced and pragmatic.

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?

As the concept of “sustainability preferences” is a new one introduced by this regulation, of course there has to be a duty of information by insurers and distributors towards the policy-holders. For reasons of understandability the language used for the explanation of these new terms must be “clear, succinct, comprehensible and not mis-leading”. If this is the case following to the guidelines and figures of annex 1 outlined in this consultation paper and leading to a layered information approach, the information requirements do not need to be expanded further.

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?

Yes, we agree. As pointed out in recital 11 of regulation (EU) 2021/1257, "in accordance with the obligation to carry out distribution activities in accordance with the best interest of costumers, recommendations to customers or potential customers should reflect both the financial objectives and any sustainability preferences expressed by those customers." The purely financial objectives of policyholders when wishing to conclude a contract of an IBIP may be long-term savings for adequate pension, a reasonable risk-return-relation, inclusion of other biometric risks like disability, death or longevity (cf. article 2 (3) (b) of regulation (EU) 2021/1257). That is why these personal objectives must be assessed first (by a sufficient granular level of target markets), and throughout the advice process, insurance undertakings and insurance intermediaries should adopt a neutral and unbiased approach so as to not influence the customer's answers (cf. CP, p. 27: Figure 3 – Two-step approach to assess the suitability of an IBIP). Additionally it must be taken into consideration that some policyholders may persecute only low or even no sustainability objectives or reach them by other retail investments (cf. recital 7 of regulation (EU) 2021/1257).

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?

Yes, we agree. We support EIOPA's view that "ranges should not be used for that purposes" (CP, p. 9), because an open gauge of percentages or shares will not create any possible upper limits of the proportion of ESG conform investments.

Q5. Guideline 2 – EIOPA proposes that insurance undertakings and insurance intermediaries should collect information on whether the customer chooses 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?

Yes, we agree following to the two Key Performance Indicators defined by article 2 (1) of regulation EU/2020 /852 and as long as “the current limitations to apply the Taxonomy rules to certain assets, in particular government bonds” subsist (cf. CP, p. 26, Annex 1, Figure 1 on KPIs). We support EIOPA’s proposal that “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” (cf. p. 15/16 of CP).

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?

Yes, we agree with EIOPA's proposal that insurance undertakings and insurance intermediaries 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.", which seem to be sufficiently granular (cf. CP, p. 9, no. 3).

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?

Yes, we agree that insurance undertakings and insurance intermediaries should 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. That is why the supporting guideline should not be more prescriptive and can be considered as sufficiently granular (cf. CP, p. 17).

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?

We agree with EIOPA's proposal that if, despite the additional explanations on sustainability, the customer is still not willing or not able to make a choice, insurance undertakings and insurance intermediaries should have policies and instructions in place for these situations. 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. For all those cases in which the sustainability preferences of the policyholder are met by the offered IBIPs, the two-step approach outlined by the draft Guideline 5 seems to be appropriate.

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

Yes, we agree (cf. CP, p. 18, no. 18-22).

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?

Yes, we agree with this approach (cf. CP, p. 19-20, no. 23-31).

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?

Yes, we agree (cf. CP, p. 21, no. 32).

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?

Yes, we agree with EIOPA's approach in case that 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 (cf. CP, p. 28: Annex I, Figure 4 - Guideline 5: Possibilities when customer has sustainability preferences). Of course the explanation for resorting to such possibility as well as the customer's decision should be documented in the suitability statement. It is particularly important that insurance undertakings and insurance intermediaries should not exert any pressure on the customer to adapt the sustainability preferences neither for "up-grading" nor for "downsizing" these preferences in order to reduce the risk of mis-selling or greenwashing (cf. CP, p. 21, no. 34).

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?

Yes, we agree. Record-keeping requirements are stipulated in articles 20 and 30 of IDD (demands and needs test, personal recommendation and suitability assessment) for the financial questions and additionally with regard to sustainability preferences in the article 9 (6) of regulation EU/2017/2359 (introduced by article 2 (3c) of regulation EU/2021/1257). This is particularly important, if the sustainability preferences of the policyholder are not met or had to be adapted (cf. CP, p. 22, no. 36). Additionally the guideline 6 should stress and clarify again that record-keeping requirements have to be fulfilled as well in the case that the sustainability preferences of the policyholder are met by the recommended IBIP (cf. CP, p.27: Annex 1, Figure 2 – Guideline 4: SFDR disclosures to be used to assess whether an IBIP matches the customer's preferences).

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?

Yes, we agree with the two-levels approach of knowledge and competences of intermediaries and employees of insurance undertakings, especially with regard to IBIPs (cf. CP, p. 22, no. 37 and 38). Accordingly to article 10 (2) of IDD (on “Professional and Organisational Requirements”) this guideline should stipulate a minimum number of hours for an annual professional training with regard to ESG factors proven by obtaining a certificate.

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.

No detailed comment possible, because BdV is neither a product provider nor a distributor of IBIPs. BdV's distribution activities are limited to non-life insurance products (with the exception of term-life products): third party liability, home content, building owners, disability etc. With regard to IBIPs some of our insurance advisors only provide general advice (without any sales!). About one third of our all employees (about 30) have direct contact with our members for these advice activities, so there will be a need for professional training related to ESG information requirements for these colleagues (following to guideline 7, no. 37, of CP, p. 22).

Contact

[Contact Form](#)