EUROPEAN COMMISSION
DG Competition

Case M.10326 - ALLIANZ HOLDING / SANTANDER / AVIVA COMPANIES / SANTANDER AVIVA COMPANIES

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 06/08/2021

In electronic form on the EUR-Lex website under document number 32021M10326

EUROPEAN COMMISSION

Brussels, 6.8.2021
C(2021) 5960 final

PUBLIC VERSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

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Subject: **Case M.10326 – Allianz Holding / Santander / Aviva Companies / Santander Aviva Companies**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 14 July 2021, the Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ("EUMR"), by which Allianz Holding eins GmbH ("Allianz", Austria) will acquire sole control within the

1 OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

2 OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

meaning of Article 3(1)(b) of the Merger Regulation over Aviva Towarzystwo Ubezpieczeń Na Życie S.A. ("Aviva Life", Poland), Aviva Towarzystwo Ubezpieczeń Ogólnych S.A. ("Aviva GI", Poland), and Aviva Investors Poland Towarzystwo Funduszy Inwestycyjnych S.A. ("Aviva Investors", Poland) (together "the Aviva Companies"), as well as, together with Santander Bank Polska S.A. ("Santander", Poland), joint control within the meaning of Articles 3(1)(b) and 3(4) of the Merger Regulation over Santander Aviva Towarzystwo Ubezpieczeń Na Życie S.A. ("Santander Aviva Life", Poland) and Santander Aviva Towarzystwo Ubezpieczeń S.A. ("Santander Aviva GI", Poland) (together "the Santander Aviva Companies") ("the Transaction").[3] The Aviva Companies and the Santander Aviva Companies are hereinafter together referred to as "the Target Companies".

(2) The Aviva Companies are currently solely controlled by Aviva Group Holdings Ltd ("Aviva", UK), and the Santander Aviva Companies are jointly controlled by Aviva International Holdings Ltd ("Aviva International") and Santander. Aviva and Aviva International are both part of the Aviva Group, controlled by Aviva plc of the UK. Post-Transaction, Allianz will obtain sole control over the Aviva Companies. In addition, Allianz will replace Aviva International as a jointly controlling shareholder of the Santander Aviva Companies, which will thus be jointly controlled by Santander and Allianz. Allianz and Santander are hereinafter together referred to as "the Notifying Parties". Allianz, Santander and the Target Companies are hereinafter together referred to as "the Parties".

1. THE PARTIES

(3) Allianz is a holding company incorporated under the laws of Austria. Allianz is part of the Allianz Group (controlled by Allianz SE of Germany), which provides financial services mainly in the field of life and non-life insurance and asset management services in over 70 countries, in particular in Europe. The Allianz Group is *inter alia* active in Poland, where, through its subsidiaries, it conducts business activity in particular in life and non-life insurance, as well as in asset management and pensions.

(4) Santander provides the full scope of banking services in Poland to personal customers, small and medium-sized companies and large corporations. Santander is part of Santander Group (controlled by Banco Santander, S.A of Spain), which is an international group of banking and financial companies.

(5) The Aviva Companies are currently controlled by Aviva, which is part of the Aviva Group (controlled by Aviva plc of the UK), which is an international insurance group that is active in providing insurance, asset management and pensions. The Aviva Companies offer life and non-life insurance, asset management and pensions in Poland, as well as life insurance and pensions in Lithuania.

(6) The Santander Aviva Companies are currently jointly controlled by Aviva International and Santander. The Santander Aviva Companies offer life and non-life insurance in Poland.

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3 Publication in the Official Journal of the European Union No C 291, 21.7.2021, p. 5–6.

2. THE TRANSACTION

(7) Pursuant to a Share Purchase Agreement, dated 26 March 2021, Allianz will acquire: (i) sole control over the Aviva Companies, which are currently under sole control of Aviva; and (ii) joint control over the Santander Aviva Companies by acquisition of direct stakes in each of these companies, which would cause Allianz to replace Aviva International as the jointly controlling shareholder (alongside Santander).

(8) Allianz will purchase all of the issued shares in the capital of each of the Aviva Companies and will therefore acquire sole control over these companies and their subsidiaries.

(9) With respect to the joint control over the Aviva Santander Companies, post-Transaction Allianz will hold a 51% share (formerly held by Aviva International), while Santander will retain a 49% share in each of these companies. Pursuant to the Shareholders Agreements[4], the supervisory boards of both Santander Aviva Companies (the "Boards") will be composed of members appointed by Allianz and Santander[5], and each of the Notifying Parties will obtain veto rights over a number of Board Reserved Matters[6]. The Board Reserved Matters include the approval and amendment of the annual budget, any increase or decrease by 5% in the operational expenses budget, and capital expenditures or investments in capital goods other than in the ordinary course of business and for a value exceeding […] in total in any financial year. […]. Therefore, the Notifying Parties will jointly control the Santander Aviva Companies.

(10) The Santander Aviva Companies are existing companies, which started their operations in 2008, and have their own management responsible for day-to-day operations, employees and all other assets required to operate independently. [Confidential information relating to the activities of the Santander Aviva Companies]. [Confidential information relating to the activities of the Santander Aviva Companies]. Therefore, the Santander Aviva Companies constitute full-function joint ventures and will remain so post-Transaction.

(11) The acquisition of sole control over the Aviva Companies and the acquisition of joint control over the Santander Aviva Companies are interrelated and interdependent transactions. Both elements of the Transaction were agreed in the same agreement and are interdependent (i.e. one transaction will not be carried out without the other)[7], and the change in the market structure is brought about by the whole Transaction together. The Transaction therefore constitutes a single concentration constituting the acquisition of control within the meaning of Article 3(1)(b).

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4 Shareholders agreements refer to two agreements between Santander and Allianz, annexed to the Share Purchase Agreement, that govern the two Santander Aviva Companies – "Shareholders Agreement – Life Company" that govern Santander Aviva Life and "Shareholders Agreement – Non-Life Company" that govern Santander Aviva GI.

5 [Confidential information relating to the control structure of the Santander Aviva Companies]

6 [Confidential information relating to the control structure of the Santander Aviva Companies]

7 See Clause 6.4 of the Share Purchase Agreement (Annex 5.1 (1) to the Form CO).

3. UNION DIMENSION

(12) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (Allianz Group: EUR 142 508 million; Santander Group: EUR […]; the Target Companies: EUR […]). Each of them has an EU-wide turnover in excess of EUR 250 million (Allianz Group: EUR […]; Santander Group: EUR […]; the Target Companies: EUR […]). The Target Companies achieve more than two-thirds of their aggregate EU-wide turnover in Poland, but Allianz Group and Santander Group do not.

(13) Therefore, the notified concentration has an EU dimension pursuant to Article 1(2) of the Merger Regulation.

4. RELEVANT MARKETS

(14) Both Allianz and the Target Companies are active in the provision and direct distribution of life and non-life insurance services, as well as in asset management and pensions in Poland.[8]

(15) The large majority of horizontal and vertical overlaps arising from the Transaction is non-affected and thus not discussed further in this Decision.[9] The Transaction only gives rise to horizontally affected markets in certain segments of the markets for life insurance and pensions in Poland. Specifically, in the following segments of life insurance: Class 3, Class 4 to individuals, Class 5 to individuals (see paragraph (21)), and in open pension funds in Poland (pension funds that operate in the second pillar of the Polish pension system, see paragraphs (32) to (34)).

(16) The remainder of this Section therefore discusses market definitions in the life insurance and pension sectors.

4.1. Life insurance

4.1.1. Product market definition

4.1.1.1. Previous Commission decisions

(17) In its decisional practice, the Commission consistently identifies three categories of insurance services: life insurance; non-life insurance and reinsurance.[10]

(18) With respect to the provision of life insurance, the Commission has in addition considered that life insurance products could be distinguished based on further criteria.

8 The Aviva Companies also have some limited activities in life insurance and pensions in Lithuania, but these do not give rise to any affected markets and are thus not further discussed in this Decision.

9 The non-affected horizontal overlaps arise in the markets for non-life insurance, insurance distribution and asset management in Poland. In each of these overlaps, the combined market shares of the Parties does not exceed 20% under any plausible market definition. In addition, the vertical links between the Parties' activities in the provision of reinsurance, insurance, insurance distribution and asset management in Poland result in a small number of non-affected vertical markets.

10 See recently, Commission decision of 29 July 2020, Case M.9796 – Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia), recital 7; Commission decision of 26 September 2019, Case M.9432 – Allianz Holdings/Legal and General Insurance, recitals 7 ff.

(19) First, the Commission has considered segmenting the life insurance market according to the purpose served by the product, distinguishing between: (i) pure risk protection products; (ii) pension products and (iii) savings and investment products (sometimes grouping the latter two).[11]

(20) Second, the Commission has previously considered whether the life-insurance market would appropriately be segmented between life insurance for individuals and life insurance for group/corporate customers.[12]

(21) Third, the Commission has considered distinguishing between life insurance products based on the type of risk covered.[13] When considering potential segmentation based on the type of risk covered, the Commission's approach has varied from case to case, based on insurance classifications used by the regulatory framework applicable at national level. Specifically in relation to the insurance sector in Poland, the Commission has considered a possible segmentation of the life insurance market on the basis of the classification under the Polish Insurance Act ("PIA").[14] Based on the PIA the following groups could be potentially distinguished:

(a) Class 1 - Life insurance;

(b) Class 2 - Dowry insurance, children provision;

(c) Class 3 - Life insurance, if connected with insurance capital fund;

(d) Class 4 - Pension insurance; and

(e) Class 5 - Accident and sickness insurance, if they supplement the above insurance.

(22) However, the Commission has recognised with regard to life insurance that from a supply side perspective, the conditions for insurance of different risk types are quite similar and most large insurance companies are active in several risk types and that this suggests that many different types of life insurance could be included in the same relevant product market.[15]

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11 See recently, Commission decision of 29 July 2020, Case M.9796 – Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia), recital 8; Commission decision of 20 July 2018, Case M.8837 - Blackstone/Thomson Reuters F&R Business, recital 29; Commission decision of 7 April 2017, Case M.8257 - NN Group/Delta Lloyd, recital 12.

12 See recently, Commission decision of 29 July 2020, Case M.9796 – Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia), recital 8; Commission decision of 20 July 2018, Case M.8837 - Blackstone/Thomson Reuters F&R Business, recital 29; Commission decision of 7 April 2017, Case M.8257 - NN Group/Delta Lloyd, recital 12.

13 See recently, Commission decision of 29 July 2020, Case M.9796 – Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia), recital 8; Commission decision of 20 July 2018, Case M.8837 - Blackstone/Thomson Reuters F&R Business, recital 29; Commission decision of 7 April 2017, Case M.8257 - NN Group/Delta Lloyd, recital 12.

14 See Commission decision of 29 July 2020, Case M.9796 – Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia), recital 9; Commission decision of 19 November 2012, Case M.6743 - Talanx International/Meiji Yasuda Life Insurance Company/Hdi Poland, recitals 22 ff.

15 See Commission decision of 3 October 2007, Case M.4844 – Fortis / ABN Amro Assets, recital 71; Commission decision of 28 August 2006, Case M.4284 – AXA / Winterthur, recitals 9 and 10.

(23) The Commission ultimately left open the precise product market definition for life insurance products for all plausible segmentations mentioned above.[16]

4.1.1.2. Notifying Parties' view

(24) The Notifying Parties note that none of the above segmentations of the market for life insurance reflects the competitive dynamics in the market, and that it would be more appropriate to define a broader market for life insurance. Nevertheless, the Notifying Parties provide data on all plausible market delineations and argue that the precise product market definition should be left open because the proposed Transaction does not give rise to competition concerns under any plausible market delineation.[17]

4.1.1.3. Commission's assessment

(25) The Commission's investigation did not provide any indications that it would be appropriate for the Commission to depart from its previous decisional practice of segmenting the market for life insurance along the above mentioned criteria.

(26) In the present case, the question whether the market for life insurance should be further segmented on the basis of the purpose served by the product, customer type and/or different risks covered can be left open since the Transaction does not give rise to serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement under any of these plausible market definitions.

4.1.2. Geographic market definition

4.1.2.1. Previous Commission decisions

(27) In previous cases, the Commission considered the market for life insurance and its segments to be national, due to national distribution channels, established market structures, fiscal constraints and specific regulatory systems among Member States. However, the exact geographic market definition has been left open.[18]

4.1.2.2. Notifying Parties' view

(28) The Notifying Parties do not contest that the relevant markets concerning life insurance services (including all potential delineations) are national in scope.

4.1.2.3. Commission's assessment

(29) The Commission's investigation did not provide any indications that would require the Commission to depart from its previous decisional practice on the geographic scope of the markets for life insurance being national.

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16 See recently, Commission decision of 29 July 2020, Case M.9796 – *Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia)*, recital 8; Commission decision of 20 July 2018, Case M.8837 - *Blackstone/Thomson Reuters F&R Business*, recital 29; Commission decision of 7 April 2017, Case M.8257 - *NN Group/Delta Lloyd*, recital 12.

17 Form CO, paragraph 93.

18 See Commission decision of 29 July 2020, Case M.9796 – Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia), recital 10; Commission decision of 7 April 2017, Case M.8257 - NN Group/Delta Lloyd, recital 13 and cases cited.

(30) For the purposes of this decision, therefore, the Commission considers the geographic scope of the market for life insurance (and its possible sub-segments) to be national in scope.

4.2. Pensions – Open pension funds

4.2.1. Product market definition

4.2.1.1. Previous Commission decisions

(31) As noted by the Commission in a previous case, the Polish pension system has a relatively complex and unique structure.[19] Since 1999, it has had three pillars, each based on different types of pension. The first two pillars are based upon mandatory contributions from salaries. The first one is a mandatory pay-as-you-go scheme based on notional defined contribution accounts and run by the state-owned Social Insurance Institutions ("ZUS"), while the second constitutes mandatory individual accounts. The first two mandatory pillars are complemented by a third pillar that includes voluntary occupational pension plans.

(32) The second pillar was initially run by open pension funds ("OFE", Polish: *otwarte fundusze emerytalne*). These are independent legal entities created and managed by a joint stock company that needs to obtain a permission from the Insurance and Pension Funds Supervisory Commission.

(33) However, the system was significantly reformed in 2013 and further changes are planned in the near future. Pursuant to the reform of the Polish pension system in 2013, contributions of OFE participants (previously allocated to open pension funds only) were allocated towards ZUS, which manages the first pillar (unless the account holder decided to keep a part in the open pension fund). As a result, the market for OFEs decreased by nearly one half.

(34) Additionally, in 2019, the government announced a plan to liquidate OFEs in its current form by transferring the remaining savings from OFEs either to ZUS or to personal voluntary schemes. The relevant draft bill has been passed by the Polish government to the Polish Parliament. Irrespective of whether the bill is eventually passed or not, OFEs are diminishing and ultimately all assets in OFEs will be liquidated. That is because according to the Polish Act of 13 October 1998 on Social Insurance System, OFEs are required to systematically transfer given participants' assets to ZUS, starting from 10 years before such person's retirement. Every year, the contributions received by OFEs are much smaller than contributions transferred to ZUS. The Parties therefore forecast that OFEs will disappear altogether in 30 – 40 years (or in the near future if the above-described bill is passed).[20]

(35) The Commission has previously concluded that the exact market definition of the Polish pensions' system can be left open. In a previous case, the market investigation had indicated that obligatory pensions (pillars one and two) and voluntary pensions

[19] See Commission decision of 5 February 2008, Case M.4950 – *Aviva/Bank Zachodni*, recital 21.

[20] Form CO, paragraph 161.

(pillar three) form two separate product markets, but the Commission ultimately left the market definition open.[21]

4.2.1.2. Notifying Parties' view

(36) The Parties indicate that the exact definition of the pensions market in Poland can be left open in this case as no competition concerns arise irrespective of the approach taken.[22]

4.2.1.3. Commission's assessment

(37) The Commission's investigation did not provide any indications that it would be appropriate for the Commission to depart from its previous decisional practice of segmenting the market for pensions in Poland into obligatory (pillars one and two) and voluntary pensions (pillar three).

(38) In this case, the question whether the market for pensions should be further segmented can be left open since the Transaction does not give rise to serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement under any of these plausible market definitions.

4.2.2. Geographic market definition

4.2.2.1. Previous Commission decisions

(39) In its previous case law, the Commission considered that that the market for pension products for Poland is national in scope, but left the final market definition open.[23]

4.2.2.2. Notifying Parties' view

(40) The Parties submit that for the purposes of this Transaction, the relevant market for pensions is national in scope.[24]

4.2.2.3. Commission's assessment

(41) The Commission's investigation did not provide any indications that would require the Commission to depart from its previous decisional practice on the geographic scope of the markets for pensions being national.

(42) For the purposes of this decision, therefore, the Commission considers the geographic scope of the market for pensions (and its possible sub-segments) to be national in scope.

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21 Commission decision of 5 February 2008, Case M.4950 – *AVIVA/Bank Zachodni*, recital 21.

22 Form CO, paragraph 167.

23 See Commission decision of 29 July 2020, Case M.9796 – Uniqa/Axa (Insurance, Asset Management and Pensions – Czechia, Poland and Slovakia), recital 20; Commission decision of 5 February 2008, Case M.4950 – AVIVA/Bank Zachodni, recital 24.

24 Form CO, paragraph 169.

5. COMPETITIVE ASSESSMENT

5.1. Introduction

(43) Article 2 of the Merger Regulation requires the Commission to examine whether notified concentrations are compatible with the internal market, by assessing whether they would significantly impede effective competition in the internal market or in a substantial part of it, in particular as a result of the creation or strengthening of a dominant position.

(44) A merger giving rise to a significant impediment of effective competition may do so as a result of the creation or strengthening of a dominant position in the relevant market(s). Moreover, mergers in oligopolistic markets involving the elimination of the important competitive constraints that the parties previously exerted on each other, together with a reduction of competitive pressure on the remaining competitors, may also result in a significant impediment to effective competition, even in the absence of dominance.

(45) The Commission Guidelines on the assessment of horizontal mergers under the Merger Regulation (the "Horizontal Merger Guidelines")[25] describe horizontal non-coordinated effects as follows: *"A merger may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers who consequently have increased market power. The most direct effect of the merger will be the loss of competition between the merging firms. For example, if prior to the merger one of the merging firms had raised its price, it would have lost some sales to the other merging firm. The merger removes this particular constraint. Non-merging firms in the same market can also benefit from the reduction of competitive pressure that results from the merger, since the merging firms' price increase may switch some demand to the rival firms, which, in turn, may find it profitable to increase their prices. The reduction in these competitive constraints could lead to significant price increases in the relevant market."*[26]

(46) The Horizontal Merger Guidelines list a number of factors which may influence whether or not significant non-coordinated effects are likely to result from a merger, such as the large market shares of the merging firms, the fact that the merging firms are close competitors, the limited possibilities for customers to switch suppliers, or the fact that the merger would eliminate an important competitive force.[27] That list of factors applies equally regardless of whether a merger would create or strengthen a dominant position, or would otherwise significantly impede effective competition due to non-coordinated effects. Furthermore, not all of these factors need to be present for significant non-coordinated effects to be likely. The list of factors, each of which is not necessarily decisive in its own right, is also not an exhaustive list.[28]

(47) Finally, the Horizontal Merger Guidelines describe a number of factors, which could counteract the harmful effects of the merger on competition, including the likelihood of buyer power, the entry of new competitors on the market, and efficiencies.

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25 OJ C 31, 5.2.2004, p. 5.
26 Horizontal Merger Guidelines, paragraph 24.
27 Horizontal Merger Guidelines, paragraphs 27 and following.
28 Horizontal Merger Guidelines, paragraphs 24-38.

5.2. Overview of affected markets

(48) On the basis of the above market definitions and the Parties' activities, the Transaction results in the following horizontally affected markets:

(a) The following segments of life insurance in Poland: (i) Class 3 life insurance products; including in the segments of Class 3 life insurance for individuals and Class 3 life insurance for group customers; (ii) Class 4 life insurance products for individuals; and (iii) Class 5 life insurance products for individuals.

(b) Open pension funds (OFEs) in Poland (second pillar of the Polish pension system).

5.3. Life insurance in Poland

(49) Both Allianz and the Target Companies are active in the life insurance market in Poland, where they hold a combined market share of [10-20]% in 2020.[29]

(50) The Transaction therefore gives rise to a number of horizontal overlaps in life insurance in Poland that do not result in affected markets. The Parties' activities in life insurance market in Poland only give rise to affected markets under the following plausible delineations of the life insurance market in Poland:

(a) Class 3 life insurance products, both for individual and group customers;

(b) Class 4 life insurance products, for individual customers;

(c) Class 5 life insurance products, for individual customers.

(51) **Table 1** below provides the Parties' market shares in all horizontally affected markets for life insurance in Poland.

Table 1: Parties' market shares in segments of life insurance in Poland (% 2020)

Life insurance segment	Allianz	Target Companies		Combined
		Aviva Companies	Santander Aviva Companies	
Class 3	[0-5]	[20-30]	[0-5]	[20-30]
- Class 3 - Individuals	[0-5]	[20-30]	[0-5]	[20-30]
- Class 3 - Group customers	[0-5]	[10-20]	Not active	[20-30]
Class 4 - Individuals	[0-5]	[20-30]	Not active	[20-30]
Class 5 - Individuals	[0-5]	[10-20]	[5-10]	[20-30]

Source: Form CO, Table 3. Market shares are estimated on the basis of the GWP ("Gross Written Premiums") of insurance products provided.

[29] See Form CO, Table 2. Market shares based on GWP. The market share of the Aviva Companies is [5-10]%, of the Santander Aviva Companies [0-5]% and of Allianz [0-5]%.

(52) **Table 2** below provides the market shares of the Parties' Top 3 competitors in each of the horizontally affected markets for life insurance in Poland.

Table 2: Competitors' market shares in segments of life insurance in Poland (% 2020)

Competitor	Market share estimate		
Class 3	**Total**	**Group customers**	**Individuals**
PZU ŻYCIE S.A.	[10 -2 0]-[20-30]	[10 -20]-[20-30]	[10 -20]-[20-30]
Nationale-Nederlanden TUnŻ S.A.	[10 -2 0]-[20 -30]	[10 -20]-[20-30]	[10 -20]-[20-30]
Open Life TU Życie S.A.	[10 -2 0]-[20-30]	[10 -20]-[20-30]	[10 -2 0]-[20-30]
Others	[10 -20]-[40-50]	[10 -20]-[40-50]	[10 -20]- [40-50]
Class 4, Individuals			
PZU ŻYCIE S.A.	[40-50]-[50-60]		
Nationale-Nederlanden TUnŻ S.A.	[0-5]-[10 -20]		
TUnŻ WARTA S.A .	[0-5]-[10 -20]		
Others	[0-5]-[20-30]		
Class 5, Individuals			
PZU ŻYCIE S.A.	[40-50]-[50-60]		
Nationale-Nederlanden TUnŻ S.A.	[0-5]-[10 -20]		
TUnŻ WARTA S.A .	[0-5]-[10 -20]		
Others	[0-5]-[20-30]		

Source: Form CO, Paragraph 245. Parties' estimates.

(53) The Notifying Parties submit that the Transaction is unlikely to give rise to competition concerns in any of these segments of life insurance in Poland as the combined share of the Parties is modest, especially compared to the market leader's (PZU ŻYCIE) share, and the share increment of the Transaction is small.[30]

(54) The Commission's assessment confirmed the Parties' view that the Transaction is unlikely to give rise to competition concerns in any of these segments of life insurance in Poland for the following reasons:

(a) In all the segments, the combined share of the Parties will remain limited. Specifically, in all the considered segments the combined market will remain within the 25% threshold set out in the Horizontal Merger Guidelines, below which a concentration is considered *"not liable to impede effective competition [and] may be presumed to be compatible with the [internal] market"*;[31]

30 See Form CO, paragraph 11.

31 Horizontal Merger Guidelines, OJ C 31, 05.02.2004, pages 5-18, paragraph 18.

(b) The increment contributed by Allianz is limited, and always below 5%. Thus, the Transaction is unlikely to cause significant change in the competitive landscape of individual segments of life insurance in Poland;

(c) Post-Transaction, in the relevant life insurance segments in Poland, the combined entity would continue facing competitive constraints from several competitors (see Table 2 above), including:

– In case of Class 3: PZU ŻYCIE S.A., Nationale-Nederlanden TUnŻ S.A. and Open Life TU Życie S.A., all of which have market shares higher than the increment brought by Allianz.

– In case of Class 4 and of Class 5: PZU ŻYCIE S.A., Nationale-Nederlanden TUnŻ S.A. and TUnŻ WARTA S.A. All of these have market shares higher than the increment brought by Allianz, with PZU ŻYCIE S.A remaining a clear market leader with a share above the combined entity's share.

(55) The market investigation fully confirmed the Parties' view on the market shares and the claim that there will remain enough competitive pressure from competing insurers in the Polish life insurance market and all of its segments after the Transaction.[32] Moreover, the majority of respondents indicated that the Parties either do not compete at all between them, or compete, but there are other insurers who also compete as strongly/closely.[33] Finally, all of the respondents indicated that the Transaction will have either neutral or positive effects on the Polish life insurance market.

(56) In light of the above considerations, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement in terms of its competition impact in the plausible markets for Class 3 life insurance products (or Class 3 life insurance for individuals and Class 3 life insurance for group customers), Class 4 life insurance products for individuals and Class 5 life insurance products for individuals in Poland.

5.4. Open pension funds (OFEs) in Poland

(57) Allianz Group and the Target Companies are active in the second and the third pillar of the Polish insurance system. However, only the Parties' activities in the second pillar (the Parties' OFEs) give rise to an affected market.[34]

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32 See replies to Q1 - Life insurance, question 3.

33 See replies to Q1 - Life insurance, question 4.

34 The Parties are not active in the first pillar, and the plausible market combining the first and the second pillar of the Polish pension system is therefore not affected.

(58) **Table 3** below provides the Parties' market shares in OFEs in Poland.

Table 3: Parties' market shares in open pension funds in Poland (% 2020)

Allianz	Target Companies	Combined
[0-5]	[20-30]	[20-30]

Source: Form CO, Table 10. Market shares are calculated on the basis of AuM (assets under management).

(59) **Table 4** below provides market shares of competing OFEs in Poland.

Table 4: Competitors' market shares in open pension funds in Poland (% 2020)

Competitor	Market share estimate
Nationale-Nederlanden Powszechne Towarzystwo Emerytalne S.A.	[20 – 30]
Powszechne Towarzystwo Emerytalne PZU S.A.	[10 -20]
AEGON Powszechne Towarzystwo Emerytalne S.A.	[5 – 10]
METLIFE Powszechne Towarzystwo Emerytalne S.A.	[5 – 10]
UNIQA Powszechne Towarzystwo Emerytalne S.A.	[5 – 10]
Generali Powszechne Towarzystwo Emerytalne S.A.	[0 – 5]
Others	[5 – 10]

Source: Form CO, Paragraph 243, data published by the KNF (Polish Financial Supervision Authority) on the basis of AuM (assets under management).

(60) The Notifying Parties submit that the Transaction is unlikely to give rise to competition concerns in this market as the Parties' combined share is moderate, the share increment is small and the market for open pension funds is a diminishing market.[35]

(61) The Commission's assessment confirmed the Parties' view that the Transaction is unlikely to give rise to competition concerns in open pension funds in Poland for the following reasons:

(a) The combined share of the Parties will remain limited at [20-30]%[36], and the increment contributed by Allianz is limited and below 5%. Thus, the Transaction is unlikely to cause significant change in the competitive landscape of open pension funds in Poland.

(b) Post-Transaction, in the open pensions funds in Poland, the combined entity would continue facing competitive constraints from several competitors with shares higher to the increment brought by Allianz, such as Nationale-Nederlanden Powszechne Towarzystwo Emerytalne S.A., Powszechne Towarzystwo Emerytalne PZU S.A., AEGON Powszechne Towarzystwo Emerytalne S.A., METLIFE Powszechne Towarzystwo Emerytalne S.A., UNIQA Powszechne Towarzystwo Emerytalne S.A., Generali Powszechne Towarzystwo Emerytalne S.A.

35 See Form CO, paragraph 18.

36 If the market shares were alternatively calculated on the basis of contributions received by open pension funds, the combined market share is even lower – [20-30]%. See Form CO, Footnote 87.

(c) The segment for open pension funds is a diminishing market in Poland, which will cease to exist in the near future due to reforms in the Polish pension system. In this respect, please see details in paragraphs (33) and (34) above.

(62) The market investigation fully confirmed the confirmed the Parties' view on the market shares and the claim that the importance of open pension funds is diminishing, and that they will ultimately be liquidated and cease to exist.[37] Moreover, all of the competitors of the Parties consider that there will remain enough effective competitive pressure in the Polish open pension funds market after the Transaction.[38] Consequently, the market investigation clearly indicated that the Transaction's impact on competition for the provision of open pension funds in Poland will be neutral.[39]

(63) In light of the above considerations, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA agreement in terms of its competition impact in the plausible markets for open pension funds in Poland.

6. CONCLUSION

(64) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Margrethe VESTAGER
Executive Vice-President

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37 See replies to Q2 Pensions / open funds – Competitors, question 2.
38 See replies to Q2 Pensions / open funds – Competitors, question 3.
39 See replies to Q2 Pensions / open funds – Competitors, question 4.