

<b>Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)</b>		<b>Deadline</b> <b>26 April 2016</b> <b>23:59 CET</b>
Name of Company:	PensionsEurope	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ Do <b>not</b> change the numbering in the column "reference"; <b>if you change numbering, your comment cannot be processed by our IT tool</b></li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to CP16-001@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</b></p> <p>The numbering of the paragraphs refers to Consultation Paper on the proposal for implementing technical standards on special purpose vehicles.</p>		
<b>Reference</b>	<b>Comment</b>	
General Comment	<p>PensionsEurope believes that while social security and workplace pensions, often supported by a supportive tax treatment, do and should continue to provide the bulk of the retirement income, voluntary personal pensions (including PEPP) can be needed and useful, especially to provide pensions for those who don't have access to adequate workplace pensions and as a further way to improve retirement resources and contribute to securing the future adequacy and sustainability of pensions.</p> <p>It can also prove to be useful when there is poor security for existing personal pension products or when existing products are not attractive enough. PensionsEurope stresses the importance to adequately define the scope of voluntary personal pensions and clearly differentiate them from</p>	

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workplace pensions.

PensionsEurope agrees with EIOPA that a standardised PPP, under the form of the PEPP, proposed as a 2<sup>nd</sup> regime, could contribute to the policy objectives of ensuring a high minimum standard of consumer protection. We also agree with EIOPA that a voluntary 2<sup>nd</sup> regime, which gives the option to national Member States to implement the PEPP-regime in their legislations, is better than harmonization. We consider that the 2<sup>nd</sup> regime is the preferred option, our answers below are based on that and hence will mostly refer directly to the PEPP, although we do some comments on the PPP too.

It is important to test the demand and also to elaborate further on the reasons why a PEPP as a 2<sup>nd</sup> regime would be useful especially in the Member States where the voluntary personal pensions are already well regulated and developed. It is also necessary to reflect upon what elements are left to national legislation, what elements are tackled at the EU level and how they could be implemented.

In particular, we agree with EIOPA's conclusion that, given the diversity of requirements and the fact that this area is beyond its fields of competence, when developing the PEPP proposal, a non-discriminatory approach vis-à-vis PPPs sold in the individual national markets should be applied in the field of taxation<sup>1</sup>, in order to avoid regulatory arbitrage. Importantly, it is up to the Member States to decide on the tax framework for supplementary pensions – EU institutions or agencies should not stipulate how the PEPP is treated tax-wise compared to other pension products and systems.

Finally, we are pleased to see that EIOPA seems to have embraced the idea that only entities

<sup>1</sup> We welcome that the Section "Tax impediments for cross-border provision" (p. 59-61) recognizes the importance of tax issues for cross-border provision. EIOPA rightly recognises that taxes are "covered by national laws and bilateral tax treaties. Pensions are taxed very differently across the EU and the tax treatment is often linked to specific characteristics of eligible products, such as holding period until tax-relevant retirement age or specific investment strategies. This already raises various challenges to the creation of a Single Market for PPPs, as products need to exhibit different features to receive beneficial tax treatment in different Member States." (p. 59)

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	<p>authorized under a relevant EU legislation should be entitled to offer PEPPs.</p> <p>Regarding the harmonization of existing PPPs, we are quite skeptical about the feasibility. Where PPPs are nowadays provided by EU-regulated insitutions, relevant Directives or Regulations already deal with the major issues such as governance, conflict of interest or consumer protection. Where PPPs are not provided by EU-regulated institutions, these regulatory gaps should be closed.</p>	
Q1	<p>As mentioned in the general remarks we appreciate that EIOPA intends to limit the provision of PEPPs only to providers authorized under relevant European legislation. As these European Directives set rules on the governance of the providers, we deem it unnecessairy to develop additional governance requirements.</p> <p>For existing PPPs, as long as the provider is regulated by European legislation, there is no need to add specific governance requirements.</p>	
Q2	<p>Overall, PensionsEurope calls for a system in which providers of personal pensions are regulated (as is currently the case) and argues against additional product regulation at EU level.</p>	
Q3	<p>We agree that distribution organisation will be key for the success of a PEPP. Distribution should not be too complicated, and we agree that internet seems to be a good channel for the PEPP, but in our view it is not the only possible distribution channel. As stated by EIOPA, the appropriate distribution channel should be selected during the product development process. It should take into account the consumers' best interests and needs, but also the existing variety of providers and products.</p> <p>Distribution rules applying to PPPs will depend on the provider. If PPPs are not regulated by European legislation, national distribution rules should be as protective as European rules for customers.</p>	
Q4	<p>It is not possible to discuss whether PRIIPs KIDs requirements can be seen as a model when the rules on the PRIIPs KIDs requirements are not yet finalised by the ESAs.</p>	

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	<p>However, PensionsEurope considers that in principle information should be adequate and digestible and could go along some of the elements of the PRIIPs KIDs requirements, but should be adapted to an individual pension product and take into account the variety of products and providers and considerations on the suitability will be only possible once PRIIPs rules are finalised. Some aspects mentioned in the PRIIPs regulation are suitable. Information on the decumulation phase, the default option, possible guarantee, (biometrical) risks and risk options could be added. The principles set out in EIOPA's paper on good practices on information provision for DC schemes could serve as a guidance.</p> <p>Issues such as financial advice to consumers should not only comprise the character of the product alone, but also other aspects, such as the financial position of the consumer and the way in which these products are taxed or tax-exempt.</p> <p>As far as certain standards should be imposed on financial providers, this should be done by means of concrete specific rules that take into account the specific activities of those providers, instead of setting standards of a highly abstract character.</p>	
Q5	<p>We agree with EIOPA that no harmonised solvency regime specific to PEPP should be defined. Each provider, if regulated under EU legislation, already has a solvency regime. To apply a different solvency process for the small section of their business relating to PEPP is impractical creating both cost and administrative burden for little added consumer protection.</p> <p>We would also like to point out that any provider regulation should acknowledge the particularities of the providers regulated. Even if this leads to differences in prudential regimes, this does not necessarily constitute an unlevel playing field if the providers are fundamentally different in nature.</p>	
Q6	<p>We consider that further supervisory powers are not necessary. As mentioned, we are in favor of EIOPA's opinion that only providers falling under relevant EU legislation are eligible to provide PEPPs. In our view the authorization requirements for providers as laid down in existing EU legislation are largely sufficient.</p>	

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	<p>We are not convinced that a stand-alone regime for the authorisation of PEPP providers is desirable. We fear that a regulatory gap in favour of providers not yet authorised under other EU financial service legislation might be created. This might result in an unlevel playing field vis-à-vis EU regulated providers and IORPs providing occupational pension schemes. Moreover, we question the perspectives on adequate supervision in practice on providers which are not yet authorised under other EU financial service legislation.</p> <p>In addition we would recommend that, before a stand-alone regime for PEPP-providers would be considered, first of all an analysis should be made in order to investigate whether existing Union law could be sufficient to cover all PEPP providers.</p>	
Q7	<p>Yes. On standardization, we agree that when defining the PEPP framework, it is important to find a balance between flexibility and standardisation. We agree with EIOPA that a standardized PEPP with a defined set of flexible elements is the best approach.</p> <p>Yes, we also agree with EIOPA that a voluntary 2<sup>nd</sup> regime, which gives the option to national Member States to implement the PEPP-regime in their legislations, is better than harmonization.</p> <p>However, we would like to point out that from our perspective an important part of the impact assessment is missing: it currently does not take into account any repercussions on ongoing retirement savings. Individuals might already make contributions to an occupational pension plan or have purchased a personal pension product, to which they regularly contribute. If the PEPP was introduced, individuals might just switch their contributions, rather than saving additionally. This is particularly likely if Member States decided to support the PEPP with tax-incentives. From our perspective, this effect is key in assessing the benefits of the policy proposals, but it is currently missing from the analysis.</p>	
Annex I : Impact Assessment		
Section 1. Procedural issues and consultation of		

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interested parties		
Section 2. Problem definition	<p>EIOPA uses “the current situation in relation to personal pensions in Europe” as the baseline scenario for comparing policy options. We would like to emphasise that from our perspective an important part of the baseline is missing in EIOPA’s analysis: it currently does not take into account any repercussions on ongoing retirement savings. Individuals might already make contributions to an occupational pension plan or have purchased a personal pension product, to which they regularly contribute. If the PEPP was introduced, individuals might just switch their contributions, rather than saving additionally. This is particularly likely if Member States decided to support the PEPP with tax-incentives. From our perspective, this effect is key in assessing the benefits of the policy proposals, but it is currently missing from the analysis.</p> <p>Linked to this point, EIOPA seems to assume that individuals have enough income left to save. This is not the case for all Member States, and even in Member States with relatively high average incomes, there are likely to be significant groups of individuals (those earning the minimum wage; holding temporary contracts; working part-time etc.) who are not in a position to set extra money aside. The impact assessment does not seem to take into account these issues.</p>	
Section 3. Objective pursued		
Section 4. Policy options	<p>EIOPA states that « none of the proposals and concepts proposed are expected to have any negative impact aggravating the challenges of the current baseline. » (p. 79). This only refers to personal pensions, however, EIOPA should also consider the impact on wider retirement provision, in particular on the second pillar (see our comments above on the baseline scenario).</p>	
Section 5. Analysis of impacts	<p>Overall, we would like to reiterate that analysis of impacts in the baseline scenario should take into account how the changes would affect current behaviour, both in relation to occupational and personal pensions. Another question which is not addressed is whether the impacts would vary across Member States.</p>	

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	<p>This section is already very short, and within this short section, the sentence “EIOPA’s analysis covered the effects on both consumers and providers.” is repeated five times. It is not followed up with any significant statements or evidence on what the effect of the policy option in question would actually be for consumers and providers.</p> <p>EIOPA states that „Positive impacts of improving the regulation of personal pensions would be positive for consumers“ (p. 81). We do not consider this to be a sound analysis – a <i>positive</i> impact after <i>improving</i> is always <i>positive</i>.</p>	
Section 6: Comparison of options	<p>From our perspective it is impossible to seriously compare the policy options relating to a market as complex as the one for personal pensions on half a page. The missing points identified above should be included in the comparison of options.</p>	