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**PensionsEurope response to the  
Commission consultation on consumer  
protection in third-pillar retirement  
products**

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## Executive Summary

PensionsEurope welcomes the European Commission's determination to raise the quality of third-pillar retirement pensions and improving consumer protection and information standards. Personal pension plans, together with occupational pension plans, improve the citizen's overall retirement benefits and play an important role in securing the future adequacy and sustainability of pensions.

We support the Commission's efforts to provide a simple and at the same time comprehensive definition of personal pension schemes. However, the definition of third-pillar pensions provided in the Commission staff working document should more clearly differentiate private individual and private occupational retirement pensions so as to ensure that all the existing occupational pension schemes in the different EU Member States are taken into consideration. Third-pillar retirement pensions shall only include private personal pensions, while any kind of workplace private pension schemes linked to a current or previous employment relationship or contract shall be considered part of the second pillar (occupational pensions).

We also believe that any initiative on this area should be in line with the work undertaken by EIOPA on the creation of a possible EU-single market for personal retirement products<sup>1</sup> in order to ensure a consistent and uniform EU approach on this topic. Internal coordination within the different Directorate Generals in the European Commission dealing with personal and occupational pensions shall also be encouraged.

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<sup>1</sup> EIOPA Discussion Paper on a possible EU-single market for personal pension products [\[Link\]](#)

## Introduction

The Commission staff working document recognises that there are different regimes across EU Member States regarding the classification of several private individual retirement plans. Although the distinction between the three different pillars in the pensions system is widely accepted, in some Member States their boundaries are blurred and their respective importance differs widely across the European Union.

In Belgium, when an employee leaves his employer where he had an occupational pension plan, among other possibilities, he can transfer his accrued rights to an insurance or a specific institution facilitated by the employer which manages the accrued pension rights for employees who left their employer. According to the Belgian occupational pensions law<sup>2</sup>, this option has a clear occupational pension's character although only individuals can transfer money to these vehicles.

In the UK there are also certain contract-based pension schemes such as the Group Personal Pensions (GPPs) which take the form of individual contracts between the scheme providers and the beneficiaries but where the employer plays a key role in the establishment of the scheme and also by paying contributions. Without the mediation of the employer, GPPs will simply not exist. GPPs have therefore the nature and characteristics of occupational pensions and should be regulated as such.

An unclear or excessively broad definition of private individual retirement plans could lead to undesirable confusion and legal uncertainty in some EU Member States. In addition, given the diverse nature and character between the second and third pillar pensions, each of them should be governed by the rules that best adapt to their specific characteristics.

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<sup>2</sup> Article 32 of the Belgian Occupational Pensions Act

## Questions

**1. Is the following definition, used in the 2012 questionnaire, effective for identifying third-pillar retirement products?**

**“Third-pillar retirement products are defined as any type of private retirement product subscribed to by consumers on an individual basis [as opposed to occupational], either voluntary or mandatory”**

Although we recognise the Commission’s efforts to differentiate private individual pensions from the other two pillars, we consider that the definition is not precise enough and could lead to confusion and legal uncertainty in those EU Member States where the boundaries between the first and second pillars are not so clearly defined. Hence, it is not sufficiently effective for identifying third-pillar retirement products.

The definition should be amended in order to ensure that occupational pension schemes linked to a current or previous employment relationship do not fall under the scope of the personal pension schemes definition. This would be in line with the approach followed in the OECD *Revised taxonomy for pension plans, pension funds and pension entities*<sup>3</sup>, which explicitly establishes that access to personal pension plans “does not have to be linked to an employment relationship”. Moreover, EIOPA’s *Discussion Paper on a possible EU-single market for personal pension products* also clearly states that “employers must not play a role in establishing a personal pension plans”.

Moreover, it is unclear what the Commission means by “retirement products”. We deem necessary to further specify this concept by clearly differentiating pension products from long term investment products.

**2. If not, what would be the most appropriate common EU definition for third-pillar retirement products?**

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<sup>3</sup> OECD Revised taxonomy for pension plans, pension funds and pension entities [\[Link\]](#)

As stated above, the definition shall further specify the differences between personal and occupational pensions. We consider that the following definition is more appropriate:

“Third pillar retirement products are defined as private retirement products subscribed to by consumers on an individual basis, as opposed to ***occupational pension schemes linked to an (former) employment relationship***, either voluntary or mandatory”.

### **3. What are the main risks for consumers when purchasing a third-pillar retirement product?**

The main risks consumers face when purchasing personal pension plans are linked to the lack of understanding of the product, the absence of transparency in the market and the difficulties for transferring their savings between providers.

Although some consumers of personal pension plans are professional investors and have a sound knowledge of the product, other consumers have problems understanding its characteristics, costs as well as its tax treatment.

Consumers also are exposed to the risk of making an inadequate investment choice due to the difficulties to compare between different providers' products or between different pension schemes.

Finally, the mobility costs and barriers when transferring their savings from one provider to another shall be removed or reduced, not only at EU level but also at national level.

### **4. How problematic do you consider the asymmetry between the consumer and the provider in terms of information about and knowledge of third-pillar retirement**

**products?**

The asymmetry between consumer and provider will depend once again on the type of consumer that purchases the personal pension scheme. Consumers lacking financial literacy will be more exposed to this asymmetry and will have problems understanding the impact of their individual choices and the individual responsibility they bear in third pillar products.

**5. Are there specific needs of consumers purchasing third-pillar retirement products that have to be better taken into account, for example via EU voluntary codes or certification schemes on consumer information (transparency) and protection standards?**

- **If so, how could consumer information (transparency) be improved? Please cover precontractual and contractual information**
- **If so, how could protection standards be improved? Please cover marketing, sales practices, inducements, advice and other aspects**

It is necessary to enhance the transparency in both precontractual and contractual information of third-pillar retirement plans.

One way of increasing transparency would be by compulsory determining the kind of documents and information that needs to be provided to potential and effective clients, similar to the UCITS prospectus and the Key Investor Information Documents (KIIDs) approach. Uniform terminology and definitions across the EU would be very helpful in this sense.

Consumers shall also be given the possibility to compare between several providers' products to ensure that they find the product that best matches their profile. Individual pension products could also offer an investment choice between several options with a default option.

The independence and objectivity of intermediaries should also be enhanced so as to prevent possible conflicts of interests.

**6. Would a self-regulatory code be the best tool for improving the quality of third-pillar retirement products?**

Indeed, a self-regulatory code would be a very valuable tool, but only provided that such rules are effectively implemented in practice. It may also not be the best tool to promote an effective standardisation of consumer protection rules across the EU.

**7. For which objectives would it be the best way of doing so? (e.g. improving consumer confidence, providing a guarantee of quality, or others?)**

A self-regulatory approach will in particular increase the transparency of the different personal pension plans and will also help the consumer to better understand the characteristics and costs linked to this type of schemes.

**8. What outstanding pension-specific consumer protection issues could a self-regulatory approach help deal with?**

Please refer to the answer given in the previous question.

**9. How and by whom should the effective application of the code be monitored?**

We consider that a pan-European Institution such as the European Commission or EIOPA would be best placed to monitor the effective application of the code.

**10. Would an EU certification scheme be the best way of improving consumer protection for third-pillar retirement products?**

An EU certification scheme would indeed contribute to the establishment of an EU-single market for personal pension plans. However, before adopting such measure, one should bear in mind the different fiscal restrictions linked to the third-pillar retirement plans.

**11. For which objectives would it be the best way of doing so? (e.g. improving consumer confidence, providing a guarantee of quality, or others?)**

Transparency as well as consumer's awareness and confidence would benefit from the creation of an EU certification scheme. Nevertheless, we believe that the EU should not aim to standardize the existing personal pension plans across Europe. The EU should focus on creating a new retirement plan which would have its own specific requirements and which could be offered across the EU.

**12. What outstanding pension-specific consumer protection issues could an EU certification scheme help deal with?**

Please refer to the answer given in the previous question.

**About PensionsEurope**

**PensionsEurope** represents national associations of pension funds and similar institutions for workplace pensions. Some members operate purely individual pension schemes.

PensionsEurope has **23 member associations** in EU Member States and other European countries with significant – in size and relevance – workplace pension systems<sup>4</sup>.

PensionsEurope has established a **Central & Eastern European Countries Forum (CEEC Forum)** to discuss issues common to pension systems in that region.

PensionsEurope member organisations cover the workplace pensions of about **80 million European citizens**. Through its Member Associations PensionsEurope represents approximately € **3.5 trillion of assets** managed for future pension payments.

PensionsEurope Members are large institutional investors representing the **buy-side** on the financial markets.

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<sup>4</sup> EU Member States: Austria, Belgium, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Romania, Spain, Sweden, UK. Non-EU Member States: Croatia, Guernsey, Iceland, Norway, Switzerland.