



26 January 2018

PensionsEurope Position paper on the pan-European Personal Pension Product (PEPP)

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About PensionsEurope

PensionsEurope represents national associations of pension funds and similar institutions for workplace pensions. Some members operate purely individual pension schemes. PensionsEurope Members are large institutional investors representing the **buy-side** on the financial markets.

PensionsEurope has **23 member associations** in 18 EU Member States and 3 other European countries with significant – in size and relevance – workplace pension systems¹.

PensionsEurope member organisations cover different types of workplace pensions for over **110 million people**. Through its Member Associations PensionsEurope represents more than **€ 4 trillion of assets** managed for future pension payments. In addition, many members of PensionsEurope also cover personal pensions, which are connected with an employment relation.

PensionsEurope also has **26 Corporate and Supporter Members** which are various service providers and stakeholders that work with IORPs.

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

PensionsEurope has established a **Multinational Advisory Group (MAG)** which delivers advice on pension issues to PensionsEurope. It provides a collective voice and information sharing for the expertise and opinions of multinationals.

What PensionsEurope stands for

- A regulatory environment encouraging workplace pension membership;
- Ensure that more and more Europeans can benefit from an adequate income in retirement;
- Policies which will enable sufficient contributions and good returns;

Workplace pensions offer

- Economies of scale in governance, administration and asset management;
- Risk pooling and often intergenerational risk-sharing;
- Often “not-for-profit” and some/all of the costs are borne by the employer;
- Members of workplace pension schemes often benefit from a contribution paid by the employer;
- Wide-scale coverage due to mandatory participation, sector-wide participation based on collective agreements and soft-compulsion elements such as auto-enrolment;
- Good governance and alignment of interest due to participation of the main stakeholders.

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¹ EU Member States: Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Romania, Spain, Sweden, UK. Non-EU Member States: Iceland, Norway, Switzerland.

Executive summary

PensionsEurope welcomes the attention that the European Commission (EC) is paying to private pensions and believes that a European framework for voluntary personal pensions is particularly needed and useful for those who don't have access to workplace pensions, as self-employed and workers in new forms of employment, or where personal pensions offered at the national level are not reliable or attractive. The PEPP could be especially useful for young European citizens who have more and more often a career in multiple Member States.

The PEPP could improve supplementary retirement savings, in particular in those countries where there is no or not a well-developed personal pension system, or there is limited (workplace) pension coverage. On the other hand, in countries with a well-developed retirement system, there is a risk that the implementation of such a second regime will interfere with the correct functioning of systems that already ensure high quality standards, or are under development. Such a consequence must be avoided: the PEPP initiative should not slow down or even reverse the development of 2nd pillar pension plans.

To this end, we encourage the EC to elaborate more on the context in which the PEPP proposal should be considered, and in particular to outline a broad and more encompassing EU strategy for saving for adequate pensions in all Member States. We believe that the PEPP initiative should be framed by a broader EU strategy for saving for adequate pensions, based on a multi-pillar approach and aimed at reducing the pension gap. The EU action on pensions should not be limited to voluntary private pensions, but it should clearly set a strategy for supporting the further development of complementary private retirement savings, thus also explicitly taking into consideration occupational pensions.

Against this background, in this position paper **PensionsEurope wants to express its preliminary views on the EC proposal, and specifically on:**

- The key role played by **tax incentives** and the risk of substitution effect between different pillars.
- The **role of IORPs** as potential PEPP providers.
- The comprehensive competences provided to the European Commission and to EIOPA for the adoption of **delegated acts**.
- **PEPP authorization regime:** PensionsEurope believes that the National Competent Authorities of the providers should be competent for authorizing PEPPs. EIOPA should be consulted before taking a decision, and should keep a central public register identifying each PEPP authorized, the provider and its competent authority.
- The **providers** allowed to manufacture and distribute PEPPs: PensionsEurope fears that some potential PEPP providers that have managed and distributed personal pension products for many years might be excluded from the opportunity of providing PEPPs. We call the EU Institutions to reflect further on the scope of article 5 of this Regulation.

- **Portability** service and compartments of the PEPP. PensionsEurope believes that the requirement set by the EC proposal to offer national compartments for all Member States at the latest three years after the entry into application of the Regulation will represent a significant burden for providers willing to enter the PEPP market. Different kind of solutions could here be envisaged.
- **PEPP distribution regime:** the PEPP Regulation should define uniform distribution rules applicable to all PEPPs in order to create an effective level playing field among different providers as well as among same providers established in different Member States.
- **PEPP information requirements:** any information requirement should be tailored to the specific nature of the PEPP and the PEPP Regulation should include a precise list of relevant information for the saver. PensionsEurope has extensively worked on a proposal on the information to be included in the PEPP Key Information Document and in the PEPP Benefit Statement. You can find it in Annex I.
- **Investment options:** PensionsEurope agrees that the investment options should be limited in number, and there should be a default option. However, we believe that further clarification is needed on the precise conditions that the different options must satisfy. We believe that the PEPP Regulation should allow providers to include a capital guarantee or other risk-mitigation strategies (e.g. life-cycle strategies) in the default option.
- **Switching of PEPP providers:** more flexibility should be given to PEPP providers to determine how frequently PEPP savers have the right to switch, provided that this should be allowed at least every 5 years.
- **Decumulation phase:** PensionsEurope welcomes the flexibility proposed by the EC, and highlights that the success of the PEPP will indeed depend on whether it is flexible enough to accommodate the needs and the business models of different kind of investors.

PensionsEurope is committed to work closely with the EU Institutions to ensure that the final outcomes of the negotiations will lead to the introduction of a pan-European pension product that meets the needs of people wishing to save for retirement and that represents a valuable investment opportunity for pension providers. If properly designed, the PEPP could contribute to the enhancement of complementary retirement savings in the EU.

Background information

Following up to the work carried out by EIOPA on personal pensions and the public consultation of the EU Commission on a potential EU personal pension framework in 2016, on 29 June 2017 the European Commission adopted a proposal for a Regulation on a Pan-European Personal Pension Product (PEPP). The proposal is accompanied by a recommendation on the tax treatment of personal pension products, foremost the PEPP.

The PEPP Regulation lays down uniform rules on the authorization, manufacturing, distribution and supervision of personal pension products that will be distributed in the Union under the PEPP label. The PEPP will be a 2nd regime voluntary personal pension product that will offer consumers a new pan-European option to save for retirement.

In this paper PensionsEurope would like to express its preliminary views on the [European Commission proposal for a Regulation of the European Parliament and of the Council on a pan-European Personal Pension Product \(PEPP\)](#) and on the [European Commission Recommendation on the tax treatment of personal pension products, including the pan-European Personal Pension Product \(PEPP\)](#).

General observations

Problem definition and objectives: the need to frame the PEPP initiative into a wider EU-strategy on pensions

PensionsEurope welcomes the attention that the European Commission (EC) is paying to private pensions. PensionsEurope promotes good pensions for the people in Europe in all different shapes and forms including private pensions, even considering the bulk of the retirement income is and will continue to be provided by social security pensions and workplace pensions. PensionsEurope believes that a European framework for voluntary personal pensions is particularly needed and useful for those who don't have access to workplace pensions, as self-employed and workers in new forms of employment, or where personal pensions offered at the national level are not reliable or attractive. The PEPP could be especially useful for young European citizens who have more and more often a career in multiple Member States.

PensionsEurope supports the goals of the Capital Markets Union (CMU) and highlights that pension providers are key institutional investors that contribute widely to the development of the real economy and can drive growth by making long-term investments. Due to the long duration of their liabilities, they are natural long-term investors, and must therefore be considered key players for the success of the CMU project². IORPs, in particular, are the long-term investors “par excellence”, as also

² For more information on the role of pension funds in the CMU see our publication: [“How pension funds contribute to jobs and growth in Europe – and how to strengthen their participation in the CMU”](#).

confirmed by the Interim Report of the High-Level Expert Group on Sustainable Investing³, with € 3.5 trillion⁴ € of Assets under Management held in the EU28⁵.

PensionsEurope welcomes the introduction of a new 2nd regime for 3rd pillar product, as the PEPP could improve supplementary retirement savings, in particular in those countries where there is no or not a well-developed personal pension system, or there is limited (workplace) pension coverage. On the other hand, in Countries with a well-developed retirement system, there is a risk that the implementation of such a second regime will interfere with the correct functioning of systems that already ensure high quality standards, or are under development. Such a consequence must be avoided: the PEPP initiative should not slow down or even reverse the development of 2nd pillar pension plans.

To this end, in our opinion, the introduction of a new pan-European personal pension product cannot be regarded simply as a self-standing initiative aimed at better linking household savings to investment opportunities within the EU (i.e. a CMU-related objective), but it should be framed by a broader **EU strategy** for saving for adequate pensions based on a multi-pillar approach and aimed at reducing the pension gap⁶. Studies⁷ show that individuals avoid taking decisions with an impact on the longer term, avoid risk taking, and avoid answering to complex questions. All this means that the contribution of the PEPP to adequate pension savings in EU might be limited and therefore should be accompanied by a long-term plan on pensions, including 1st and 2nd pillar pensions. The overarching goal of the PEPP should be to increase the overall number of people saving for retirement. PensionsEurope wants to stress that a well-developed 1st and 2nd pillar is crucial to provide an adequate income at retirement and to face the demographic challenge.

While agreeing on the importance of having a strong CMU that seeks to facilitate the flow of savings to long-term investments and removing obstacles to the free flow of capital across borders, PensionsEurope believes that finding a solution for closing the pension gap should also be regarded as one of the key general objectives of the PEPP proposal and of the EU strategy that should frame it. We note that the Impact Assessment (IA) accompanying the PEPP Regulation contains references to the pension gap, but it does not include it within its scope, and the Regulatory Scrutiny Board has expressed reservations aimed at removing such references from the report⁸. PensionsEurope believes

³ See HLEG on Sustainable Finance Interim Report, p. 35.

⁴ see "[EIOPA 2016 Market development report on occupational pensions and cross-border IORP's](#)", table D on p. 12; some occupational pensions are provided on the basis of Solvency-II and should still be added to this number.

⁵ This figure is higher than the Assets under Management currently held in relation to PPP's, which the IA puts at € 0,7 trillion (rising over a 10-year period to € 1.4 trillion in a baseline scenario without PEPP, to an optimal PEPP scenario of € 2.1 trillion). At first sight, it also seems probable that IORP's invest more in illiquid long-term investments than current PPP's.

⁶ The pension gap is the difference (or gap) between the pension individuals on an aggregated basis can currently expect to receive (from a possible combination of state, workplace and personal pensions) and the amount individuals on an aggregated basis are likely to need for an adequate standard of living in retirement (IA, p. 94). The pension gap is mentioned in the IA but not in the text of the PEPP Regulation.

⁷ "The Economic Importance of Financial Literacy: Theory and Evidence", Lusardi, A and Mitchell O., Journal of economic literature 2014.

⁸ See [2nd opinion of the Regulatory Scrutiny Board](#), p.2: "The report should be further edited to fully focus on the prime CMU objective and remove remaining references linked to the objective of addressing the pension gap that should rather be presented as a potential long-term side impact".

that, besides the main drivers, problems, and consequences assessed in the IA⁹, it must be ensured that PEPPs will meet the needs of people wishing to save for retirement, contributing to address the demographic challenge and to provide for an adequate retirement income, taking also into account 1st and 2nd pillar pensions¹⁰. Further considerations should therefore be given to other drivers that are currently left out of the scope of the assessment of this initiative.

In our opinion, PEPPs cannot be considered as pure investment products, as they are connected with social policy in general and pension policy in particular, both prerogatives of the Member States. Pension systems differ widely across Europe, having diverging importance/role of I, II and III Pillar, different types of pension arrangements and personal pension products, and, not least, differences between the individual's ability to save. Moreover, the overall social and economic situations differ between Member States and thus we believe that Member States are best positioned to take decisions about their own pension systems, and to value whether a product deserves a favourable tax treatment or not. Even acknowledging that the PEPP is a 2nd regime pension framework that will stand alongside national regimes, we would like to stress that the proposed regulation would not built supplementary retirement provision from scratch, but will have to be inserted in, and adapted to, the different existing pension systems already in place.

Because of these concerns we encourage the European Commission to elaborate more on the context in which the PEPP proposal should be considered, and in particular to outline a broad and more encompassing EU strategy for saving for adequate pensions in all Member States.

Today the majority of people simply is not subscribed to voluntary supplementary pension products¹¹, and the reasons for this are the most varied, including the lack of financial means to invest for retirement, lack of financial literacy and of information on their future retirement income, as well as the lack of trust in financial institutions, etc. No single (EU) policy measure alone will close the pension gap, but a coordinated mix of measures could help Member States and the social partners to tackle this important issue that will be particularly relevant to future generations. Overarching issues such as demographics, adequacy of the retirement income, financial literacy and awareness about the importance of saving for retirement should be adequately considered by this proposal.

In line with the 2012 White Paper on pensions¹², an EU action on pensions should not be limited to voluntary private pensions, but it should clearly set a strategy for supporting the further development of complementary private retirement savings, thus also explicitly taking into consideration **occupational pensions**. We believe that appropriate action is needed to further improve occupational pension schemes, as today IORPs are very unevenly spread over Member States or, in other words, in several Member States there could be room for further encouragement of the development of 2nd pillar pensions and the IORP II Directive provides a good base for this in recital 20¹³. We call for the European Commission to promote multi-pillar pension systems, and to establish the High-Level group

⁹ Chapter 2 of the IA, p. 9-24.

¹⁰ The IA accompanying the Regulation leaves out of its scope important drivers (see problem tree page 26).

¹¹ According to the IA (p. 11) only 67 million people, out of a total EU population of 243 million between 25-59 years old (27% of the total) are currently voluntarily subscribed to financial products with a long-term perspective.

¹² White Paper 'An Agenda for Adequate, Safe and Sustainable Pensions' ([COM\(2012\) 55 final](#)).

¹³ "Taking into account the need to further improve occupational retirement provision, the Commission should provide significant added value at Union level by undertaking further steps in supporting Member States' cooperation with social partners in the improvement of second pillar pension schemes and by establishing a high level group of experts to enhance second pillar retirement savings in Member States, including the promotion of the exchange of best practices between Member States, in particular with regard to cross-border activity."

of experts that should enhance second pillar retirement savings in Member States, including the promotion of the exchange of best practices between them.

Potential market uptake: the key role of tax incentives and the risk of substitution effect

The IA accompanying the PEPP proposal states that “the volumes of PPPs combined with the PEPP could reach EUR 2.1 trillion by 2030 in the most favourable scenario whereby the PEPP would be granted a favourable tax treatment in all Member States. This implies that the introduction of the PEPP would contribute to 50% of the growth on the whole personal pension market between now and 2030. This estimate is based on the favourable assumption that PEPP would receive the same tax treatment as existing PPPs in all Member States under the baseline scenario. Should the favourable treatment of the PEPP be limited to fewer Member States, or even absent, the development of the PEPP would be sufficiently lower. Should no favourable tax treatment be granted, savers would be disincentivised to contribute to a PEPP and this would result in an outcome close to the baseline scenario of EUR 1.4 trillion”¹⁴.

In several instances in the IA the importance of the availability of **national tax incentives** for retirement savings is rightly underlined. It is worth noting that the IA points out that without tax incentives, the PEPP will not lead to any growth of the pensions market. The overall success of this EU initiative is therefore closely linked to the voluntary up-take of the EC Recommendation, subjected to a unilateral decision by each Member State.

It is clear that the market appetite for such product will vary upon Countries, as its take-up will be influenced by the overall design of the pension system, by the generosity of public and occupational pensions, by the tax framework for PEPP and by the ability of the individuals to set additional money aside for retirement (a factor which has not been analysed in the Impact Assessment).

The tax treatment that each country will grant to the PEPP will have to take into consideration the current design of its pension system, especially in the numerous EU countries that already provide safe, adequate and sustainable pensions to their citizens.

We want to highlight that any decision on the pension system design is, and should remain, a Member State responsibility. In this respect, we believe that more clarity is needed that PEPP is intended as an addition to both 1st and 2nd pillar pensions and therefore it is not intended to replace 2nd pillar occupational pensions¹⁵. Even if the PEPP Regulation would make this statement, contributions could still be moved from existing second and third pillar pension schemes into the PEPP, in particular if the tax framework for the PEPP is generous or if tax incentives for other pension products are reduced to finance the PEPP tax incentive. The IA currently unknowledges that **substitution** might occur¹⁶, but it does not provide further analysis.

¹⁴ see IA p. 34-35

¹⁵ Presently this is not entirely clear from the text, see for instance recital 11 “This framework will not replace or harmonize existing national *personal* pension scheme”.

¹⁶ See IA, p.34: “[...] the uptake of the PEPP could potentially consist of an important substitution effect whereby funds currently saved in deposits, other investment products or even existing PPPs would be redirected towards the PEPP. Consequently, only a limited part of the PEPP uptake would be incremental savings”.

All in all, PensionsEurope hopes that the PEPP proposal will lead to a measurable growth of the number of European citizens saving for adequate pensions, accounting for both occupational and personal pensions: any form of substitution from 2nd pillar pensions to 3rd pillar pensions should be avoided. In that respect, we are concerned that, notwithstanding with the considerations made in the IA¹⁷, all the projections made on the future market up-take assume that there will not be any substitution effect at all¹⁸. From our perspective, this is unrealistic. Consequently, we think that the Key Performance Indicators (“KPI’s”) in the IA¹⁹ are inadequate, as they should also consider the total asset under management of all supplementary pensions savings, and not only PPPs.

Role of IORPs

The PEPP proposal introduces a new pan-European product that is offered alongside national pension product regimes by a defined set of providers already authorized under relevant EU law, among which IORPs. PensionsEurope believes that further clarifications are needed on the role of IORPs in the context of PEPP.

In principle, PensionsEurope supports the inclusion of IORPs as potential PEPP providers. However, if the PEPP Regulation will allow IORPs to offer PEPPs, it is important that:

- With a view to legal certainty, the PEPP Regulation shall not interfere with / change the IORP Directive and/or national law as regards the position of IORPs in any way. The definition of IORPs in article 6 of the IORP II Directive, read together with the first paragraph of article 7 of the IORP II directive, allows IORPs to offer individual pensions, but only in the context of an agreement or contract agreed between employer(s) and employee(s) or for the self-employed, on condition that the law of both home and host state allow for this. Given this starting point it is not entirely clear how some of the articles of the new PEPP proposal relate to the IORP II Directive. For instance, in case a member of an IORP with a PEPP provided by the IORP related to his employer would start working for another employer not bound by the original contract between employer(s) and employee(s) or becomes self-employed, and either home or host state does not allow a role for an IORP. It is important that the EU legislators take into consideration the relation between the IORP II Directive and the PEPP Regulation. We believe that the *lex specialis* principle does not apply in this specific case, as there is a collision of two sets of rules that are both specific and deals with different topics. Product regulation on third pillar pensions and the one hand, and prudential regulation of second pillar pension institutions on the other. This leads us to the conclusion that the regulation needs to respect the role of IORPs as recently legislated in the IORP II, e.g. drafting the text of the PEPP Regulation in such a way that allows Member States to limit the role of IORPs when there is a strong and valid reason to do so.
- the PEPP Regulation will respect the specific nature of an IORP. IORPs are defined in Recital 32 of the IORP II directive as *“pension institutions with a social purpose that provide financial services. They are responsible for the provision of occupational retirement benefits and should therefore meet certain minimum prudential standards with respect to their activities and*

¹⁷ see footnote 19.

¹⁸ See IA, p. 61.

¹⁹ IA, p. 66-67.

conditions of operation, taking into account national rules and traditions. However, such institutions should not be treated as purely financial service providers. Their social function and the triangular relationship between the employee, the employer and the IORP should be adequately acknowledged and supported as guiding principles of this Directive.”

The PEPP Regulation should, for instance, refer to them in article 5 as potential “PEPP provider” and not as “financial undertaking”.

- the PEPP Regulation will respect the specific structure of an IORP. IORPs are often governed by social partners and are subjected to a tailor-made supervision that incorporates national social and labour law and allows governance structures that are appropriate for the characteristics of the IORP.
- If IORPs provide PEPP, PEPP provisions need to be ringfenced from the provisions for occupational pensions.

Comments on the tax recommendation

Alongside with the PEPP Regulation, the European Commission has also adopted a recommendation that concerns Member States’ application of tax rules to individuals who qualify as PEPP savers. In this recommendation, the Commission encourages Member States to grant PEPPs the same tax treatment as the one granted to national PPPs, once PEPPs are launched on the personal pension market, even in those cases where the PEPPs features do not match all the national criteria required by the Member State to grant tax relief to PPPs. Where Member States have more than one type of PPPs, they are encouraged to give PEPPs the most favourable tax treatment available to their PPPs.

In several instances in the IA the importance of the availability of national tax incentives for retirement savings is rightly underlined. As mentioned before, it is worth noting that the IA points out that without tax incentives, the PEPP will not lead to any growth of the PPP market. The Ernst & Young report²⁰ demonstrates that the description of national tax incentives is not a very straightforward and transparent exercise, and that many Member States operate more than one tax framework for different situations and/or pension products. The overall success of this EU initiative is therefore closely linked to the voluntary up-take of the EC Recommendation, subjected to a unilateral decision by each Member State, thus giving each Member State the opportunity to examine negative effects on the respective national pension framework.

That being said, we would like to raise some concerns related to the proposed solution on tax treatments:

- Pension policy and tax policy are prerogatives of the Member States. Pension systems differ widely across the EU, there are differences between first and second pillar pension provision and not least between the individual’s ability to save. The financial situations of the Member States and the possibilities of granting a tax framework for pension savings are very different. This means that the tax framework is often related to social and economic goals, and that Member States are in the best position to make evaluations about their pensions systems and about which kind of pensions they want to favour.

²⁰ [E&Y Study on the feasibility of a European Personal Pension Framework](#)

- The recommendation to grant PEPPs with the most favourable tax treatment provided at national level to PPPs in those cases where Member States have more than one type of PPPs, needs to be further considered. We highlight that when a Member State has more than one type of PPPs with different tax treatment, often the most favourable tax treatment is granted to national products (and providers) that face stringent rules. If a Member State has national PPPs that grant the beneficiary with stricter rules than the PEPP, or which focus on a limited section of the population, it is not clear why the Member State should follow such recommendation. This would lead to a discrimination of national products, which from our perspective is not acceptable. We highlight that different tax treatments will lead providers to a heavy administrative work related to the management of different compartments (especially if providers will be obliged to open compartments in all Member States within 3 years). We stress that this will hinder the simplicity of the product for both the pension providers and the savers.
- Finally, PensionsEurope highlights that compartments should be built in order to prevent tax avoidance, for instance when a saver asks for a transfer from an EET/ETT regime to a TEE/TTE.

Delegated acts

The proposal foresees delegated acts for conflicts of interest, inducements, selling PEPPs with and without advice, product oversight and governance requirements, provision of information during the contract term, reporting to national authorities, and investment options.

Considering the diversity of pension systems across the EU, we wonder whether the comprehensive competences provided to the European Commission and to EIOPA for the adoption of delegated acts are intended in the field of pensions. By means of delegated acts the regulation can be supplemented or amended by a simplified procedure which does not involve any control through Parliament or Council. PensionsEurope have reservations about the proposed use of delegated acts in this Regulation.

Other key considerations related to specific PEPP features

Authorization regime

The PEPP Regulation (art. 4) empowers EIOPA to authorize PEPP products. Once the product is authorized, the PEPP provider/distributor is entitled to manufacture and distribute the PEPP in all Member States. In the proposed Regulation, the national competent authority of the applicant “shall be consulted by EIOPA before taking a decision” (art. 6).

Pensions Europe proposes that the National Competent Authority of the provider oversees the authorization of the PEPP. We think that empowering EIOPA of authorizing PEPPs would need complex procedures to regulate the division of tasks between EIOPA and NCAs. In our view, EIOPA should be consulted before taking a decision, and should keep a central public register identifying each PEPP authorised, the provider and its competent authority.

Providers allowed applying for the authorization of a PEPP

Article 5 provides a closed list of financial institutions that may apply for authorization of a PEPP.

PensionsEurope highlights that the PEPP Regulation, as proposed, may exclude from the provision of PEPPs entities that have managed and distributed PPPs for many years, but that are not covered by EU Regulations. In our view, the PEPP Regulation should allow other entities to apply for authorization of a PEPP, provided that they pass a previous screening, consisting in the validation by EIOPA that the regulation applicable to those entities is equivalent to that of the IORP Directive. Therefore, we would propose to add a new letter g) to the scope of article 5, for which we propose the following wording:

(g) Other entities registered or authorized in accordance with provisions of Member States' laws to provide personal pension products as defined by Article 2 (1) of this Regulation, provided that these provisions are deemed equivalent by EIOPA to the rules laid down in Directive 2016/2341/EU of the European Parliament and of the Council.

We believe that this approach fits with the philosophy of the Regulation, as it strengthens the single European market and its institutions.

Moreover, there are already precedents. For instance, the exemption from the clearing obligation for OTC derivatives provided by the Regulation (EU) No 648/2012 (EMIR), which ESMA granted to the Spanish Personal Pension Funds, after a favourable opinion from CNMV, in consideration of the regulatory equivalence regime with Occupational Pension Funds in IORP II Directive (Article 89.2 EMIR Regulation).

Finally, it avoids the incoherence of the third country regime. All the Directives referred to in Article 5 provide a third countries regime with the purpose of providing services to entities from third countries, always on the basis of the equivalence of the applicable rules and reciprocity. For instance, recital 64 AIFM Directive establishes that: *"...a basic principle of this Directive should be that a non-EU AIFM is to benefit from the rights conferred under this Directive, such as to market units or shares of AIFs throughout the Union with a passport, subject to its compliance with this Directive. This should ensure a level playing field between EU and non-EU AIFMs"*. As a result, not including an option such as the proposal would lead to the unwanted situation that entities belonging to the categories on the list (investment Firms, Banks, Insurers or Management companies) but established in non-EU countries could be authorized to promote and distribute a PEPP, and on the contrary, entities such as Spanish EGFP (*"Entidades Gestoras de Fondos de Pensiones"* / Management Companies of Pension Funds), which belong to the EU and manage Individual Pension Plans in Spain since more than 30 years and channel more than 71,000 million € of 7 million participants, could not be authorized for this activity.

Portability service and compartments of the PEPP

In the context of the provision of the portability service, article 13 requires that each PEPP shall offer national compartments for all Member States, upon request addressed to the PEPP provider, at the latest three years after the entry into application of the Regulation.

PensionsEurope recognises that portability is a key feature of the PEPP and of its pan-European character. However, we fear that such obligation will represent a significant burden for providers willing to enter the PEPP market. The obligation might render unattractive the product for both the provider and the consumer: on the one hand the provider will indeed be obliged to open compartments in all EU Member States, thus having to administrate each of them (contracts, languages, tax regimes, etc.). The risk is that only large providers who already operate across the EU and already have national experts in the different jurisdictions will be in the position of offering PEPPs. On the other hand, PEPP savers will have to sign a new contract for each compartment opened, thus finally ending in a burden for the attractiveness and simplicity of the product.

PensionsEurope believes that the promotion of partnerships or agreements between PEPP providers could be a solution to be investigated in order to ensure the pan-European character of the PEPP and to lower the burden on providers.

Another solution could consist on extending the timeframe of three years to open compartments in each Member State to allow providers to amortize the related costs and investments (in terms of research, training, IT platforms, etc.).

Finally, we believe that further clarification and guidance on the concrete functioning of compartments and on the management of transfers of accumulated rights should be given. For instance, we see the need for further consideration to assess whether a transfer between compartments is efficient given the objective of long-term savings, and for clarification on the tax consequences for the individual and for the Member State concerned.

PEPP distribution regime

Contrary to the proposal of the European Commission, PensionsEurope believes that the PEPP Regulation should define uniform distribution rules applicable to all PEPPs in order to create an effective level playing field among different providers as well as among same providers established in different Member States. Since MiFID and IMD rules have been differently transposed in the Member States' national legislative framework, applying MiFID and IMD rules would create differences in the rules applicable to providers distributing the same PEPP in different Member States.

Furthermore, we support that – as proposed – at least the default option can be offered completely digitally, without a need for advice in another than digital form. This could contribute to the aim of the Commission of providing EU citizens with a new simple and cost-effective pension product.

More in general, it is key that the PEPP and its providers will not be burdened with too many costly requirements. This not only goes for the distribution, but also for other aspects, such as requiring PEPP providers to be able to handle all the legal regimes of tax law and social law in all Member States (see also further in this paper).

PEPP information documents

PensionsEurope agrees that having clear standardized information is crucial.

On the one hand, the PEPP Regulation models the pre-contractual information - PEPP Key Information Document (KID) - on the PRIIPs (art. 23). PensionsEurope highlights the fact that pension products are outside the scope of the PRIIPs Regulation (Article 2(2) of Regulation (EU) No 1286/2014) notably because it was acknowledged by policymakers during the PRIIPs Regulation legislative process that the KID may not be fitting for pension products. On the other hand, the content of the annual benefit statement, and pre-retirement and pay-out phase information follows that under the IORP II Directive. PensionsEurope believes that any information requirement should be tailored to the specific nature of the PEPP, that is not a pure investment product, nor an occupational pension scheme. The complexity introduced by different compartments requires that the related information needs to be aligned, preferably in a comparable way, with the regulations in each of the different Member States (retirement age, tax regime, payment options etc..).

PensionsEurope has extensively worked on a proposal on the information to be included in the PEPP Key Information Document and in the PEPP Benefit Statement. You can find it in Annex I.

Investment rules

PensionsEurope supports the proposal that PEPP providers invest in accordance with the “prudent person” principle. Indeed, an appropriate level of investment freedom should be allowed to PEPP providers.

As for the investment options, PensionsEurope agrees that these should be limited in number, and that there should be a default option. However, we believe that further clarification is needed on the precise conditions that the different options must satisfy.

The PEPP proposal includes a default investment option that “shall ensure capital protection for the PEPP saver, on the basis of a risk-mitigation technique that results in a safe investment strategy. Capital protection shall allow the PEPP saver to recoup the capital invested” (art. 37).

It is not clear from the wording of this article whether this implies a capital guarantee or also allows risk-mitigation strategies such as de-risking life-cycling. PensionsEurope believes that the PEPP Regulation should allow providers to include a capital guarantee or other risk-mitigation strategies in the default option, as we believe that the investment approach that would be required from having a capital guarantee would not be compatible with the types of investments envisaged by the CMU. When a capital guarantee is provided, it should be a long-term guarantee (until retirement) and it should not apply to investment switches in between.

PensionsEurope furthermore notes that the provision on investment rules in the PEPP-proposal (article 33) is almost an identical copy of article 19 of the IORP II Directive, but we do not understand the reason why the clause on ESG has been left out²¹.

Finally, we believe that further clarification of the rules on the alternative investment options is needed: article 38.1 states that “if PEPP providers offer alternative investment options, at least one of them shall offer a cost-effective investment option to PEPP savers”. It is not clear if this refers to an index-tracking fund (or something which is similarly cheap to provide).

In our view, in general terms, all options should be cost-effective.

Switching of PEPP providers

The PEPP Regulation allows a PEPP saver to switch providers no more frequently than once every 5 years. PensionsEurope welcomes the proposal of having minimum holding periods, but suggests that more flexibility should be given to allow PEPP providers to determine how frequently PEPP savers have the right to switch. We believe that it should be up to the provider to decide how frequently the switching service can be asked, provided that it must be allowed at least once every 5 years.

PensionsEurope also highlights that it is not clear how switching would work when the switching service is requested between different types of providers. Furthermore, we question how switching can be aligned with the long-term savings objective of the PEPP.

²¹ “within the prudent person rule, Member States shall allow [PEPP providers] to take into account the potential long-term impact of investment decisions on environmental, social and governance factors”

Finally, we believe that the PEPP Regulation should be clearer in stating that what is switched are the amounts, not the assets.

Decumulation phase

PensionsEurope welcomes the flexibility proposed by article 52 on the pay-out phase to offer a broad range of pay-out options including annuities, lump sums, drawdown payments, or combinations of these forms. We believe that the success of the PEPP will indeed depend on whether it is flexible enough to accommodate the needs and the business models of different kind of investors.

PensionsEurope highlights that such flexibility must be read in close relation with the freedom of choice of each Member State to favour (for instance through a more favourable tax treatment) one form of pay-out instead of another (e.g. different tax reliefs for lump sums).

Finally, PensionsEurope wants to highlight that introducing the possibility to switch providers during both the accumulation and decumulation phase (see recital 41) and to reconsider the choice of the pay-out option foreseen in article 52 would make it difficult to provide annuities.

ANNEX I: PensionsEurope proposal on a PEPP Key Information Document and on a PEPP Benefit Statement

PensionsEurope believes that any information requirement should be tailored to the specific nature of the PEPP and the PEPP Regulation should include a precise list of relevant information to be included in the PEPP KID and in the PEPP Benefit Statement for the saver. PensionsEurope has worked on a proposal on the information to be included in:

1. Pre-contractual information (PEPP Key Information Document);
2. Information during the term of the contract (PEPP Benefit Statement).

1. PEPP Key Information Document

| TYPE OF INFORMATION | DESCRIPTION |
|------------------------|---|
| Name of the PEPP | |
| Name of the provider | |
| Type of PEPP | |
| Investment options | |
| - Default option | |
| - Alternative option 1 | |
| - Alternative option 2 | |
| - Alternative option 3 | |
| - Alternative option 4 | |
| Costs and charges | Includes a description of every type of cost and charge, both during the term of the contract and the payout phase |
| Guarantee (if any) | |
| Past performance | This should include information on the past performance of the PEPP scheme as a whole or, where relevant, of the PEPP saver's investment option. The past performances are presented in a chart covering performance for any years available and up to the last 10 years. |
| Decumulation phase | It illustrates the possible alternative payout options that can be chosen by the investor |
| - Pay-out option 1 | |
| - Pay-out option 2 | |
| - Pay-out option 3 | |
| Portability service | The section describes how the portability service is provided and to which Countries it is immediately available |

| | |
|---|--|
| Switching service | The section describes how the switching service is provided. |
| Applicable law | |
| Minimum investment period | Country-specific information |
| Target retirement age | Country-specific information |
| Conditions for modification of the chosen investment option | |
| Depository (if any) | |
| Fiscal treatment | Country-specific information |
| Early withdrawal | Country-specific information |
| Competent Authority | |
| Mediation mechanisms | |

2. PEPP Benefit Statement

| TYPE OF INFORMATION | DESCRIPTION |
|---|---|
| Personal details of the PEPP saver | It includes a description of the retirement age of the PEPP saver. |
| Name of the provider | It includes indication of the contact address and identification of the PEPP provider. |
| Information on pension benefit projections | The projections are based on the retirement age of the PEPP saver. A disclaimer should warn the PEPP saver that the benefits received might differ from the projections. If the projections are based on economic scenarios, these should also include a best estimate scenario and an unfavorable scenario, taking into consideration the specific nature of the PEPP. |
| Pay-out option | It includes a description of the payout option chosen by the PEPP saver. |
| Accrued entitlements or accumulated capital | |
| Contributions | Information should be given about the level of contributions paid at least over the last 12 months by the PEPP saver and any third party. |
| Funding level of the PEPP scheme | |
| The member State in which the PEPP is authorized or registered | |
| Name of the competent Authority | |
| Information on full or partial guarantees under the PEPP scheme, where relevant | Information on the nature of the guarantee and the mechanisms protecting accrued individual entitlements |
| Past performance | This should include information on the past performance of the PEPP scheme as a whole or, where relevant, of the PEPP saver's investment option. The past performances are presented in a chart covering |

| | |
|-------|---|
| | performance for any years available and up to the last 10 years. |
| Costs | This should include a breakdown of the costs deducted by the PEPP provider at least over the last 12 months, indicating the costs of management and administration, costs of safekeeping of assets, costs related to portfolio transactions and other costs, as well as an estimation of the impact of the costs in the final benefits. |