

**Comments Template for
Discussion paper on a possible EU-single market for personal pension
products**

**Deadline
16 August 2013
18:00 CET**

Name of Company:

Disclosure of comments:

EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.

*Please indicate if your comments on this CP should be treated as confidential, by deleting the word **Public** in the column to the right and by inserting the word **Confidential**.*

Public

Please follow the following instructions for filling in the template:

- ⇒ Do not change the numbering in the column "question"; if you change numbering, your comments cannot be processed by our IT tool.
- ⇒ Leave the last column empty.
- ⇒ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty.
- ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.
 - If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies.
 - If your comment refers to parts of a question, please indicate this in the comment itself.

Please send the completed template, in Word Format, to personalpensions@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.

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| Question | Comment | |
|-----------------|---|--|
| General Comment | <p>We would like to thank Eiopa for the opportunity to react on the discussion paper 'on a possible EU-single market for personal pension products'. We value the concerns of EIOPA about the adequacy of provisions for old age and in particular the availability and quality of personal pension products, highly. It is of great importance that European citizens know what to expect from their pension provisions in terms of replacement of income and pension risks. This information is essential for them to timely comprehend the adequacy of these provisions and, if necessary and possible, to activate them to realize additional savings.</p> <p>The answers to the questions in the consultative document mentioned below follow from the specific context of the Dutch pensionsystem. In the Netherlands, the first-pillar state pension provides inhabitants with a basic income. Furthermore 93% of employees receive income after retirement originating from additional occupational pension benefits in the second-pillar. The first-pillar finances about 52% of total pensions in the Netherlands, the second-pillar about 43% and the third-pillar about 5%. On average, the replacement rate realized with first, second and third pillar pension benefits is between 60 and 70% (this percentage is a little higher for the lower wages and a little lower for the higher wages). Second pillar (occupational and generally collective) pension arrangements are strictly separated from third pillar (voluntary individual) pensions. Involvement of employers in terms of financial contributions to the pensions of their employees (by paying premiums) or the establishment of institutions for retirement provision (pension funds) separated from the sponsoring undertaking is restricted to, the second pillar.</p> <p>Pension products in the third pillar are purchased by consumers voluntarily and exclusively from private providers. Contributions are paid to individual accounts. The entities providing the third-pillar pension products are properly funded. The characteristics of a third-pillar pension product could be those of a savings product, an investment product, an insurance product or a combination of these products.</p> <p>There are no rules that oblige providers of third-pillar pension products to guarantee minimal returns nor minimal outcomes. Both in the second and the third pillar pension products can only be provided by financial institutions that have a license based on European legislation and therefore can be used as a passport for rendering cross-border services. Second pillar licenses are based on national legislation implementing the IORP- and Solvency-directives. In the third pillar, licenses are based on national legislation for banks, investment funds and insurance companies implementing CRD, UCITS/AIFM and Solvency-legislation.</p> | |

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Q1

This comment refers to questions 1 to 6
We agree that it is essential for PPP (Personal Pension Products) to have an explicit retirement objective. One could choose the approach agreed upon with regard to the dealing with pensions in the PRIPS directive. That means to refer to national legislation (tax or otherwise) for criteria that are considered essential for retirement products by the national authorities of those member states. Also very useful for the definition of PPP is the restriction to payments of contributions to an individual account. PPP cannot be reconciled with collectiveness and solidarity/risk-sharing elements which are typical for occupational pensions in the second pillar. With PPP only the individual consumer is the party concerned and beneficiary of the PPP. Any involvement of an employer by means of payments or contributions to an individual account on behalf of the consumer would be at odds with the objective of PPP. PPP should be distinguished from collective and individual occupational pension arrangements executed by IORPs in the second pillar. We therefore support a study on possible elements for a similar and new set of common rules to enable cross-border activity (in the field of PPP), instead of looking into the possibilities to improve cross-border activity in the field of individual occupational pension arrangements executed by IORP's. We also consider PPP solely in the context of the third pillar, that is in the context of individual consumers purchasing pension products from private (funded) entities.

We also agree that in relation to an explicit retirement objective, the possibilities of an early withdrawal of accumulated capital should generally be limited. From the theoretical perspective of an equivalent function of the first, second and third pillar in financing pension income one could consider restrictions in the forms in which benefits can be paid out at retirement. However, in reality national pension systems differ a great deal as well as the functions of the first, second and third pillar within those systems, both geographically and in time. In a country where the pension income that can be generated from the first and second pillar is quite robust, because it provides individuals with adequate income at retirement, restrictions of the devise of pension products, and especially restrictions on methods of pay-out, do not make any sense. In that perspective lump sum payouts or temporary period payments should not be excluded.

In the Netherlands PPP (third pillar pensions) can only be offered by financial institutions which

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comply with both national and European sectoral financial markets legislation obligating them to possess a license that can (generally) be used both nationally and as a passport for rendering cross-border services. It concerns savings, investment and insurance products or combinations of these products offered by banks, investment funds and insurance companies under CRD, UCITS/AIFM and Solvency-directives. Therefore, we propose that the research, rather than looking at solutions for a missing cross-border market or for a new supervisory regime, focuses on analyzing why cross-border services are not rendered substantially despite the existence of European legislation for these markets. Essential will be what elements in the European legislation for these financial markets sectors might discourage cross-border trade and the internal market from sparking off or whether there are other causes that could explain limited cross-border activity. One could for instance think of differences in national pension and tax systems that PPP's have to be tailored to in order to be of interest to consumers. Diversity in social and labour law, local consumer needs and preferences as well as cultural differences and language problems might in practise also be a relevant impediment to cross-border trade.

We presume the possibilities of sparking of an internal market for PPP are the best for pure DC-products, that is DC-products without any guarantees on returns or outcomes, as these products are the most simple and comparable and as the European legislation relevant for the financial institutions offering these products and the products itself is highly harmonized (CRD, UCITS and AIFM). We think that a discussion on the advantages and disadvantages of a possible further harmonization of prudential requirements would only be useful with regard to PPP that do imply guarantees and in a sector where as to yet there are no European prudential rules applicable or where the level of harmonization of prudential rules is still relatively low. In third pillar pensions with guarantees one could only think of insurance products, but insurance companies have to comply with prudential rules which are highly harmonized. Therefore we seriously doubt whether it is (primarily) prudential rules that are impeding cross-border PPP. If it would be possible to devise a product that would fit consumers needs in several or all member states, a single market for these PPP could in principle lead to competition that would lower prices if all other practice obstacles could also be overcome and the consumer would feel confident enough to purchase these complex and impactful products on a cross-border basis.

We find the OECD definition of PPP less apt, as the OECD also includes occupational (contributions to) pension arrangements. Moreover, we do not see how a differentiation between mandatory and voluntary participation in PPP can be of use for the purpose of trying to spark off the internal market for PPP because elements such as payments of contributions to individual accounts and to private

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| | funded entities offering those products are lacking. We favour adding elements mentioned before to the definition of PPP that EIOPA is currently using for its database: payment of contributions to individual accounts and limiting the early withdrawal of accumulated capital as these products have an explicit purpose to provide income at retirement. As already mentioned, we consider individual pension arrangements which involve payments of contributions of employers as occupational pensions and not part of 3 rd pillar pensions, but of second pillar pensions where the IORP-directive is relevant. | |
| Q2 | | |
| Q3 | | |
| Q4 | | |
| Q5 | | |
| Q6 | | |
| Q7 | <p>This comment refers to questions 7 to 10 and 19</p> <p>We think that the internal market for PPP would benefit most when the scope of the responsibilities of the state, of employers and of individuals in the first, second and third pillar would be distinguished clearly and when PPP would be offered by properly funded private financial institutions only. From that perspective it would be very helpful to use the term “PPP” only for reference to individual pension products in the third pillar. Moreover, it would be a logical conclusion to bring PPP that to this date are out of scope of European legislation for the financial markets within the boundaries of existing sectoral legislation for financial institutions. For instance it could be studied how PPP that are currently regulated nationally, but resemble UCITS, could be integrated under the UCITS-regime.</p> <p>We expect less difficulty in defining the market value and cross-border transfer of capital accumulated in PPP, relative to capital accumulated in IORP’s, as PPP will only involve payments of contributions to individual accounts administrated by private fully funded entities.</p> <p>Examples of differences in the implementation of prudential rules for financial institutions in member states can only be relevant for PPP which imply guarantees on returns or outcome. Therefore only prudential rules for insurance companies is of interest in this context. We expect the national differences in discount rates for liabilities to disappear when the Solvency II directive and related legislation will enter into force. The same goes for the parameters which are used to define the amount of technical provisions.</p> | |

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| | We think it is possible to realize an internal market for PPP with return or outcome guarantees, but we expect that it will be even harder to reach this goal relative to an internal market for (DC)-PPP. There is more diversity in PPP with guarantees and therefore discussions on the valuation of the differing guarantees under risk-based prudential rules will arise, even in the situation of a relatively high level of harmonisation of prudential rules. Moreover, the conditions of these guarantees could be interrelated with local social and labour law. In that case a discussion on compliance of both prudential rules and social and labour law will be needed in both the home and the host country of a PPP. | |
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| Q19 | | |
| Q20 | <p>This comment refers to questions 20 to 25</p> <p>A 2nd regime could in theory be useful in case differences between national legislation relating to the same financial products cannot be taken away by further harmonization of existing European legislation for those products or the financial institutions those products are offered by. To this point we have found no evidence that differences in national legislation could explain a lack of cross-border offerings of PPP. Moreover legislation for financial institutions offering savings-, investment and insurance products is currently highly harmonized, especially as soon as Solvency II will enter into force for the insurance industry. This legislation already provides for prudential rules and rules that aim at protection for consumers, as well as rules on the transparency of information for financial products. Furthermore, as mentioned already, we expect transfers of assets accumulated in PPP to be</p> | |

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| | less burdensome relative to assets accumulated in IORPS . PPP can be characterized as individual and funded accounts and therefore we expect that it will be easier to define the market value, especially as the discount rates are or will be harmonised on an European level. National differences between taxation systems cannot be eliminated by developing an European standard product. We therefore do not see any reason for, nor added value of, a 2nd regime. | |
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| Q22 | | |
| Q23 | | |
| Q24 | | |
| Q25 | | |
| Q26 | | |
| Q27 | <p>This comment refers to question 27 to 63</p> <p>The largest part of the consultation deals with consumer protection for third pillar pension products. The main risks for consumers when purchasing a third-pillar retirement product do not differ substantially from the risks when purchasing other complex financial products, such as mortgage products. The most important risk is that the average consumer does not have an adequate insight into his own needs nor into the essential characteristics of the financial product offered so as to be able to evaluate both the adequacy and the quality of this product.. Moreover, the real sufficiency of the pension income that will be generated by a third-pillar product will only turn out at retirement, that is many years after the choice for a product is made. For an average consumer long-term and complex products are difficult to understand, as are abstract concepts such as risk and purchasing power, whilst these products could have a substantial impact on one's life. In addition to providing adequate information about retirement products to consumers, financial awareness of consumers is of even greater importance, but at the same time an information overload has to be avoided.</p> <p>The most common types of third-pillar retirement products in the Netherlands are annuity insurance and 'lijfrente-banksparen/beleggen'. 'Lijfrente banksparen/beleggen' is a product administrating benefits in a blocked savings-account or a blocked account administrating shares in an investment fund. Both annuity and 'lijfrente-banksparen/beleggen' are fiscally facilitated in order to stimulate citizens to make reservations for old age. These type of products are, together with a.o. mortgage products and investment funds, due to their more complex nature and potential impact on consumers</p> | |

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classified in Dutch law as ‘complex products’.

For complex financial products, additional rules on transparency and selling practices apply. Financial institutions are required to provide consumers with a ‘financial leaflet’ before selling a complex financial product (with the entry into force of the PRIIPS-Regulation and the MCD this financial leaflet called “financiële bijsluiter” will be replaced by a similar document: the Key Information Document/European Standard Information Sheet). The purpose of the concise and comprehensible information that is provided in the financial leaflet in the Netherlands is to give the consumer a standardised (and comparable) manner insight into the essential characteristics of the financial product at hand. For instance the nature of the financial product and the outcome it can generate (savings, investment, insurance or a combination of these types of products) needs to be addressed as well as the risks and the costs that can influence the outcome. Standardised graphics have to be used to show these effects in a visual way.

On the demand side of the equation, financial education has a pivotal role to play. Financial education can help people to plan for their financial future and improves their ability to identify their (retirement) needs. It can help them to understand their anticipated retirement income and select amongst the options to decrease the gap between income and needs.

In addition to financial self awareness, it is of great importance that they consumers can ask for help and advice. Therefore stimulating financial awareness of those consumers that activates them to question and understand their own needs and the information on financial products provided and if necessary activates them to ask for the assistance of a professional financial planner or adviser is important. These consumers should be able to rely on financial professionals that adequately provide services in the interest of the clients they claim to represent. Therefore the Netherlands have, in addition to more general rules on sales of complex financial products, recently put a ban on inducements to decrease the risk of misselling practices. There is a high level of consumer protection for complex products in place in the Netherlands. Regulation regarding transparency and sales practices stems both from European and national legislation governing banks, insurance companies, investment funds and investment services. There is also helpful self-regulation in place, for example on transparency on annuity insurance products.¹

¹ See also https://www.verzekeraars.nl/overhetverbond/zelfregulering/Documents/Handleiding_bij_de_informatiemodellen_beleggingsverzekeringen_2012.pdf

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| | Though the requirements on transparency and the marketing and sales are the same for all complex products, the specific requirements are adjusted according to the specific nature of the different products. For example, the financial leaflet for a mortgage product requires slightly different information than the private pension product. | |
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