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:	Fédération Française des Sociétés d'Assurance	
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. o 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. o 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.**	

Question	Comment	
General Comment	FFSA welcomes EIOPA's request to create a single market in the field of personal pension products. We very much support the general aim of developing complementary private retirement savings, supported by European institutions, including the European Commission in its White Paper on pensions. The FFSA strongly supports the general aim of developing third pillar pensions for European citizens as a significant way to provide them supplementary retirement savings. A multi-pillar system has the advantage of diversifying risks since it allows mitigating demographic and financial factors. FFSA would like to highlight that among the different actors which can provide third pillar pensions products, insurers are already subject to high levels of regulation, both in terms of prudential requirements and consumer protection. In addition, many discussions are currently taking place at EU level, which may concern personal pensions markets directly or indirectly. It is notably the case for the discussions on the PRIPs regulation, the IMD recast and the MIFID recast. Moreover, FFSA would like to highlight that third pillar pensions can be provided by a number of different actors which are not submitted to the same level of requirements. Therefore, the FFSA considers it is fundamental to wait for the outcome of these discussions, in order to avoid overlaps and possibly contradiction between the different initiatives. If a new initiative were to take place, it would be essential to start by indentifying existing differences between actors (pillar II/pillar III, insurance sector /non insurance sector, and try to close existing gaps, instead of creating new rules on the top, where existing rules will prove sufficient. As indicated in the study of the 26th regime (carried out in 2006), the FFSA considers that the 2nd regime is necessarily an optional regime, applicable throughout Europe, which: – should allow the emergence of European services and to expand the supply of services under national law without limiting this offer too specific framework that does not allow to design a wide variety of products; – is available to both domestic and multinational players;	

	– can be used for both domestic and cross-border distribution. This optional system allows maximum flexibility for the parties who will be free to use or not. In addition, if we want to have this optional instrument right, it is appropriate that it addresses and contains general provisions, i.e. protection of consumer interests and the exclusion of any other national provision redundant or otherwise. As remarks, we wish to stress that FFSA response to EIOPA consultation will not include responses to all the questions raided by EIOPA. Some topics required more time before a final response can be provided.	
Q1		
Q2	FFSA considers that there is no obvious evidence to focus on one particular type of scheme first. Indeed both DC and DB schemes are important and have different features that need different attention and treatment. Moreover we believe that it is necessary to standardize assumptions provisions in all countries, for both DB and DC. In particular it is essential to uniform the choice of the rate. It will ease the comparison of products and allow a better consumer protection all over the EU.	
Q3	As for insurance products, the FFSA considers that European prudential regulation is sufficient. There is no need to add additional prudential requirements on the top for PPPs. FFSA considers that a new initiative, if any, should start identifying existing differences between actors and country, in order to fill the existing gaps and to standardize, rather than adding new rules on the top of existing regulation.	
Q4	European business is expanding which causes an increase in the mobility of workers in Europe. This makes necessary the ability to use a uniform and flexible framework throughout the EU. Therefore, the ability to use a consistent framework across Europe is needed. Creating a single market for PPPs will ease the provision of new solutions for a better protection all over the EU. Finally it will promote mobility of citizens.	

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Q5	Pensions have certain characteristics that distinguish them from other savings products. Therefore, FFSA strongly suggests also defining ‘retirement products’ to differentiate from other savings products: they must have an explicit retirement objective and provide an income in retirement. The definition should clarify that retirement products which can be subscribed by self employed individuals (TNS) on a voluntary basis in occupational basis belong to pillar II. FFSA suggest the following definition of third pillar pension’s products: “Third-pillar pension products are defined as long-term savings products subscribed by consumers on a private voluntary and non occupational basis with primary goal of providing an income in retirement.” Moreover ALM (Assets Liabilities Management) for the pension must be provided without any interruption (between accumulation phase and payout phase).	
Q6	In France, it remains under the insurance contract law.	
Q7	FFSA would like to highlight that additional rules, which may have an impact on PPPs, are currently being discussed at EU level, ie Packaged Retail Investment Products (PRIPs), Insurance Mediation Directive recast (IMD2), MIFID 2… Therefore, FFSA urges to wait for the outcome of these initiatives, including their discussions on scope to avoid possible inconsistencies or overlaps between the different initiatives. On the other hand, it is fair to say that pensions can be provided by a number of different actors in Europe which are not submitted to the same level of prudential requirements. FFSA considers that a new initiative, if any, should start identifying existing differences between actors in order to fill the existing gaps rather than adding new rules on the top of existing regulation.	
Q8	No, FFSA believes that transferability of accumulated pension capital should not be included within the scope of this call for advice. Transferability of pension products will lead to shorter product duration, resulting in more expensive products and lower benefits for policyholders and less long term investment opportunities for the financial institutions.	

	If such a system should take place, in return information on existing rights should be equivalent to the global information system of all pension products (pillar 1/2/3).	
Q9	Please refer to question 7	
Q10	To answer the question, we need to know what guarantees you are talking about.	
Q11	Considering that the listed tax obstacles take into account not only the differences between the systems in place across Member states, but also the differences between the thresholds of deductible contributions, the FFSA has not identified at this stage other tax obstacles.	
Q12	The principle of non-discrimination as laid down by the primary EU law is well respected by the French legislation. In terms of personal income tax, the taxation regime applicable to a tax resident is attached to the pension product subscribed by this resident. There is therefore no difference in treatment depending on whether the contract is signed with a French provider or with a foreign provider, when the PPP meets the requirements subscribed by the national legislation. In addition, the methods of collection of certain taxes (social security contributions CSG and CRDS) applicable to the provision must be adapted, since the foreign provider is not subject to these taxes.	
Q13		
Q14	As identified by EIOPA, the difference between the systems of taxation of PPPs adopted by the Member States (whether the TTE or EET system applied) is likely to cause difficulties in term of transferability. Transfer without any condition should in particular lead to cases of non-taxation or double taxation. Thus, adjustments are needed to ensure the consistency of the systems. Once the issues clearly identified, existing instruments could be modified and improved, including tax treaties between Member States.	
Q15	In the case referred to Question 15, the FFSA has not identified other elements to those identified by EIOPA. The change of residence will lead to a change in the tax legislation applicable to the	

	PPP. The residence of the policyholder determines the applicable tax legislation. Taxation of contract depends on the place of residence of the individual and the conditions that the contract must comply with under the national legislation. In accumulation phase, rules on deductibility may be modified. In payout phase, taxation of pension may be modified. The tax treaty between countries B and C may be applicable.	
Q16	It seems that in France there is no 1st pillar bis products.	
Q17	Please refer to question 7	
Q18	Please refer to question 7	
Q19	Language, legal environment such as legal systems (the family law, inheritance law, data protection...) and the jurisprudence of the country are amongst the obstacles to passporting.	
Q20	In principle, FFSA is rather in favor of a 2nd regime for pension as it currently seems to be the best way to achieve an efficient passporting while avoiding member states goldplating. Nevertheless we question the timing of the call for advice. It is crucial to have a complete overview of the European market regulation and a good understanding of the products offered in the different markets. FFSA stresses again that discussions such as those in the context of Packaged Retail Investment Products (PRIPs) Regulation, Insurance Mediation Directive (IMD 2) and Markets In Financial Instruments Directive (MIFID 2) are currently taking place at EU level, and will have an impact on the provision of individual pensions across the EU. Therefore, FFSA suggests to wait for the outcome of these discussions, including discussions on their scope, in order to avoid overlaps and possible contradictions between the different initiatives.	

Q21	Please refer to question 20	
Q22	Please refer to question 20	
Q23	Please refer to question 20	
Q24	Please refer to question 20	
Q25	Please refer to question 20	
Q26	For products provided by insurers, Solvency II requirements pre contractual information as well as ongoing information, and right of withdrawal, already provide a strong level of consumer protection for individual pension products. IMD also ensures that the product meets the demands and needs of the client. At national level in France, there is already a high level of regulation in place providing consumers with information and advice standards. There is also a professional self-regulatory code for the purpose of advice or information to consumers. Any new regulation should thus take into account European as well as national requirements in order to determine where more regulation is needed and where over regulation is to be avoided. In any case, the FFSA would like to stress that any new regulation should not result in consumers receiving excessive, duplicative, and thus confusing information. In this respect we do believe that making available some information on the PPPs provider's website could be a solution.	
Q27	Please refer to question 26	
Q28	Please refer to question 26	
Q29	Please refer to question 26	
Q30	Please refer to question 26	
Q31	Please refer to question 26	
Q32	Please refer to question 26	
Q33	Please refer to question 26	
Q34	Please refer to question 26	

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Q35	Please refer to question 26	
Q36	This information should be regularly communicated on durable mediums.	
Q37	Please refer to question 36	
Q38	Please refer to question 36	
Q39	Please refer to question 36	
Q40	Information should be provided in the ongoing phase, which is already provided by French law.	
Q41	Please refer to question 40	
Q42	Please refer to question 40	
Q43	Please refer to question 40	
Q44	Please refer to question 40	
Q45	Please refer to question 40	
Q46	This information should be regularly communicated on durable mediums.	
Q47	Please refer to question 46	
Q48	Please refer to question 46	
Q49	Please refer to question 46	
Q50	Please refer to question 46	
Q51	Please refer to question 46	
Q52		
Q53		
Q54		
Q55		
Q56	FFSA points out that insurance PPPs are already under the scope of Solvency II and IMD. Moreover, rules about conflicts of interest are already part of Solvency directive framework and are currently discussed at European level in the context of IMD recast.	

	As a consequence, we do not see why there should be significantly different requirements on distribution and selling practices for insurance PPPs.	
Q57	Please refer to question 56	
Q58	Please refer to question 56	
Q59	Please refer to question 56	
Q60	Please refer to question 56	
Q61	Please refer to question 56	
Q62	Please refer to question 56	
Q63	Please refer to question 56	
Q64	Please refer to question 56	
Q65	Please refer to question 56	
Q66	Please refer to question 56	
Q67	Please refer to question 56	
Q68	FFSA is in favor of a uniform but flexible framework throughout the EU legislation. Any direct or indirect product regulation would have to follow innovation and flexibility. If not, this would be to the detriment of the insurers' clients. This would also be inconsistent with the freedom of product design established by Article 21. 1 of Directive 2009/138/EC (Solvency II).	
Q69	Please refer to question 68	
Q70	Please refer to question 68	
Q71	FFSA would like to stress that the insurance industry constantly adapts its retirement products to clients' demands and needs. Products that might meet the demands and needs of some consumers - based on their preferences and personal situation - might not meet the demands and needs of others. It is therefore important to ensure appropriate disclosures and conduct of business rules to enable consumers to take informed decisions. FFSA therefore strongly opposes any initiatives that could reduce product development and stifle innovation such as product	

	authorisation or product banning.	