

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:	National Association of Pension Funds (NAPF)	
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<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ <u>Do not change the numbering</u> in the column "question"; if you change numbering, your comments cannot be processed by our IT tool. ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a question, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <ul style="list-style-type: none"> ○ 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. <p style="text-align: center;">Please send the completed template, <u>in Word Format</u>, to personalpensions@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p>		

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Question	Comment
General Comment	<p>The National Association of Pension Funds (NAPF) supports the European Commission's efforts to strengthen the single market in personal pensions and welcomes EIOPA's discussion paper on these issues.</p> <p>The NAPF</p> <p>The NAPF is the leading UK voice for workplace pensions. The NAPF's members operate almost 1,300 pension schemes, providing pensions for nearly 16 million people and managing over €1 trillion of assets. Our membership also includes a wide range of over 400 providers of essential advice and services to the pensions sector. This includes accounting firms, solicitors, fund managers, consultants and actuaries.</p> <p>The NAPF's interest in personal pensions relates primarily to Group Personal Pensions (GPPs), which are commonly used for pension provision in the UK workplace.</p> <p>Auto-enrolment in the UK and Group Personal Pensions (GPPs)</p> <p>The UK's pensions landscape is being transformed by the introduction of auto-enrolment. Auto-enrolment will bring between 5 and 9 million new people into workplace pension saving. The vast majority of these new savers will be in defined contribution (DC) schemes. It is vital that these schemes are appropriately and proportionately regulated in order to create the conditions in which the EU single market can be strengthened.</p> <p>Many UK employers will use contract-based defined contribution (DC) pension schemes for automatic enrolment of their staff into workplace pensions. These schemes are established by the employer but take the form of a contract between the individual saver and a pension provider. GPPs are a widely used form of contract-based DC pension scheme in the workplace.</p>

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The NAPF is concerned that EU intervention in the personal pensions market could inadvertently cause confusion in the UK. The regulation of GPPs is already complicated, with oversight shared between The Pensions Regulator (which regulates workplace pension schemes) and the Financial Conduct Authority (which regulates personal pensions). The creation of a further tier of regulation (for example, through the development of a "2⁸th" or "2nd" regime at EU level) could exacerbate the current difficulties.

The NAPF's view is that any pension scheme where the employer has control should be regulated as a workplace or 'second pillar' pension scheme, rather than as a personal or 'third pillar' pension. This would include the GPPs currently being used for auto-enrolment in the UK. This would mean that:

- Pillar 2 of the pensions system (ie, workplace-based pensions) should cover all pension schemes used for auto-enrolment and / or where the employer makes contributions to the employee's fund and / or where employers provide some form of promised benefit.
- Pillar 3 (ie, personal pensions) should cover any type of private retirement product for accumulation of savings subscribed to by consumers on an individual basis.

More broadly, the NAPF encourages EIOPA to ensure its policy-making and advice in this area is well co-ordinated with the work currently being undertaken by DG SANCO on consumer protection in personal pensions.

For further information, please contact:

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	<p><i>James Walsh</i> <i>Policy Lead, EU & International</i> <i>NAPF</i> <i>138 Cheapside</i> <i>London</i> <i>EC2V 6AE</i> <i>UNITED KINGDOM</i></p> <p><i>Email: james.walsh@napf.co.uk</i></p>	
Q1	<p>Do you find the list of common features of PPPs identified by EIOPA complete? Would you add any other features (e.g. periodic income)?</p> <p>As discussed in the General Comments above, the NAPF urges EIOPA to take a clear view about the differences between workplace-based pension schemes and personal pensions.</p> <p>Workplace-based schemes include Group Personal Pensions, where the employer plays a major role in establishing the scheme and – generally – pays contributions for the employee’s benefit. These schemes would not exist without the involvement of the employer and should be regulated as such.</p> <p>Subject to clarity on this point, the NAPF agrees that EIOPA’s list of common features is accurate.</p>	

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Q2	<p>Do you think that EIOPA should focus more on DC or DB PPPs? What elements should be regulated for both types of PPPs in order to create a single market for PPPs?</p> <p>At least in the UK, personal pensions are essentially DC schemes. This should be EIOPA's focus.</p>	
Q3	<p>Do you think that future regulation of PPPs should also include additional prudential requirements in cases where the provider of certain PPPs is already subject to European prudential regulation?</p> <p>The NAPF would not support additional prudential requirements. The insurance companies that provide personal pensions are already subject to Solvency II.</p>	
Q4	<p>What advantages do you see in creating/improving a single market for PPPs?</p> <p>The NAPF supports the strengthening of the Single Market, although we recognise that the existence of different tax regimes at national level can present a significant obstacle to running pension schemes across national borders.</p> <p>A Single Market for PPPs would enhance labour mobility in the EU, but this should not be achieved at the expense of extra regulatory costs that could undermine pension provision for the many EU workers who do not move across borders.</p>	
Q5	<p>Do you think that these definitions fully reflect the EU personal pension</p>	

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	<p>landscape? If the answer is negative, what changes would you suggest in the wording of the definitions? Which of the definitions is better?</p> <p>As discussed in answer to question 1 above, it is important that workplace-based schemes (including Group Personal Pensions) are regulated as such.</p> <p>Although both definitions are perfectly accurate, there is a risk that the simpler EIOPA definition does not capture the nuances of some markets – such as the market in the UK where the distinctions between second and third pillar pensions may not be clear-cut.</p> <p>For these reasons, the more comprehensive OECD definition is probably the better choice.</p>	
<p>Q6</p>	<p>In some countries when a Personal Pension contract is chosen by an employer, the pension remains under the regulatory regime for consumer financial services rather than falling wholly under the regime for workplace pensions. Do respondents believe that such pensions are personal pensions?</p> <p>In the UK, the regulation of such schemes is shared between The Pensions Regulator (which regulates workplace pension schemes) and the Financial Conduct Authority (which provides consumer protection in the personal pension market). A <i>memorandum of Understanding</i> sets out the roles of the two authorities.</p> <p>The NAPF has long argued that there should be a single regulator (The Pensions Regulator) for all workplace-based schemes, and this ties in with our view that GPPs should be treated and regulated as workplace pensions, due to the central involvement of the employer.</p>	

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Q7	<p>How could a single market be developed for PPPs unregulated at EU level (e.g. cases where IORP Directive is voluntarily applied to PPPs)?</p> <p>Rather than creating a new tier of regulation, the EU should focus on ensuring that pension schemes are subject to the appropriate elements of the <i>existing</i> regulatory system.</p> <p>As we explain above, this means that schemes where the employer is closely involved should be treated and regulated as workplace pensions, whereas schemes where the relationship is directly between the consumer and the provider should be regulated as personal pensions.</p>	
Q8	<p>Do you think that EIOPA should consider developing a framework for transferability of accumulated capital for passported PPPs? What obstacles to transferability can you identify and how can they be overcome? Can you identify the benefits of a transferability framework in the context of PPPs?</p> <p>The NAPF would support moves to make it easier to transfer pension pots between Member States. However, we also recognise that previous initiatives in this area, such as the proposal for a Portability Directive, have encountered insuperable difficulties, not least due to the different tax systems in each Member State.</p> <p>EIOPA may find it more fruitful to focus on other initiatives where the chances of success are greater.</p>	

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Q9	<p>What are the prudential obstacles for creating a cross-border market for PPPs for different types of providers (banks, insurers, UCITS)?</p> <p>The NAPF does not envisage major prudential obstacles in the development of a single market in personal pensions.</p> <p>In any case, the providers of personal pensions are already subject to EU-wide prudential rules under Solvency II.</p>	
Q10	<p>Do you think it is feasible to develop a cross-border framework for PPPs with guarantees (DB PPPs and DC PPPs with guarantees)?</p>	
Q11	<p>Have you identified any other tax obstacles in addition to the four identified by EIOPA? Can these obstacles be eliminated in practice?</p> <p>The NAPF has not identified any further tax obstacles, but it should be recognised that these are, in themselves, very significant barriers.</p> <p>Given the difficulties involved, the NAPF recommends that EIOPA and the EC focus their attentions on areas where progress could more easily be achieved.</p>	
Q12	<p>According to your knowledge, how do MSs approach the principle of non-discrimination of foreign PPP providers in their national tax legislation as far as taxation of contributions, investments and benefits is concerned?</p>	

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Q13	<p>In your opinion, is the principle of non-discrimination in taxation of financial products, as developed by CJEU, sufficient on its own to remove the tax obstacle to the cross-border functioning of PPPs?</p> <p>Case law alone is not sufficient to remove all tax obstacles. However, as explained in our answer to question 11 above, the NAPF recommends that policy-makers focus their attention on more tractable issues.</p>	
Q14	<p>Do you consider that transferability requires harmonisation of the tax treatment of pensions across MSs? In your view, are such changes feasible?</p> <p>Yes, full transferability would require tax harmonisation. Again, as explained in our answer to question 11 above, the NAPF recommends that policy-makers focus their attention on more tractable issues.</p>	
Q15	<p>What (tax) obstacles can you identify in cases where an individual who is a tax resident of state A and holds a PPP provided to state A on the basis of of cross border passport by provider with tax residence in state B, becomes a tax resident in state C?</p>	
Q16	<p>Do you see the need of the creation of a single market for products 1st pillar bis? What would be the benefits of creating a single market for 1st pillar bis products? How could the challenges posed by existing social and labour law be overcome, in particular in the Member States which have no products 1st bis?</p>	

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Q17	How could a single market be developed for PPPs unregulated at EU level? Should it be based on the IORP Directive or another directive?	
Q18	<p>Taking into account the fact that the contributions to the 1st pillar bis products come from diverting part of the contributions of the traditional public 1st pillar PAYG system, would it be feasible to create a passporting regime for providers of 1st pillar bis PPPs?</p> <p>In particular do you think that EIOPA should consider the possibility to create a framework for cross-border management of 1st pillar bis schemes.</p> <p>If the answer is positive, do you think that EIOPA should consider the possibility to create a framework for cross-border management of 1st pillar bis schemes based on the principles of UCITS Management Company passport? (Art. 16 to 21 of the Directive 2009/65/EC).</p> <p>If the answer is positive, how would the UCITS Management Company passport need to be modified for 1st pillar bis managers to take into account specificities of 1st pillar bis?</p>	
Q19	Can you identify any other obstacles to passporting of PPPs? How can these obstacles be overcome?	
Q20	Would passporting alone be sufficient framework for cross-border provision of PPPs or should EIOPA work on 2nd regime as well? Which approach do you consider more appropriate to develop a single market in the field of PPPs?	

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	<p>Although the NAPF is concerned with workplace-based pensions, rather than personal pensions, we have some comments on EIOPA's proposals for a '2nd regime'.</p> <p>Our key point is to underline some of the difficulties identified by EIOPA in para. 3.3.7. We agree there is a risk of creating additional regulatory complexity.</p> <p>Furthermore, although we can see that the 2nd regime might be of benefit for <i>providers</i>, it is less clear how it would work for <i>savers</i>. Presumably savers would have to choose a 2nd regime product at the time of joining the pension plan in order to benefit from the transferability that it would offer. It is not clear how savers would make such a decision.</p>	
Q21	How should the 2nd regime be designed so that it becomes standard that can compete with other PPPs and attract a critical mass of demand from providers and individuals?	
Q22	How could the 2nd regime accommodate the tax differences among MSs? Do you see other national differences that the 2nd regime should address? If yes, how could this be done?	
Q23	How would you design the main elements of the 2nd regime, in particular: <ul style="list-style-type: none"> o rules applicable to providers 33/52 © EIOPA 2013 <ul style="list-style-type: none"> o accumulation phase (pure DC, DC with guarantees, DB or hybrid?) o pay-out phase including benefits (e.g. should the benefits include only 	

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	<p>annuities, or also programmed withdrawals and lump sum payments?)</p> <ul style="list-style-type: none"> o product design (e.g. investment rules) o consumer protection aspects. 	
Q24	<p>Should the 2nd regime comprise product rules only or product and providers rules? Should the 2nd regime prefer only certain types of risk sharing arrangements, e.g. DC? If the answer is positive, what would be the implications for the design of the 2nd regime?</p>	
Q25	<p>If a 2nd regime for PPPs were to include prudential rules, do you think that it is possible to define a common way to calculate provisions for different types of providers? Do you think the capital needed for such activities could be the same for the different type of providers?</p>	
Q26	<p>What information requirements are needed to protect PPP holders? What information should be presented in order to help them make sensible decisions and when and how should this information be presented? What are the differences to be considered with respect to occupational pensions and to the advice given by EIOPA to COM for the revision of the IORP Directive?</p> <p>The different kinds of PPP holders</p> <p>The starting point on this issue should be a recognition that personal pensions are used by several different types of savers – each with different levels of financial literacy and, therefore, with different requirements in terms of consumer protection. These groups include:</p>	

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- self-employed workers with no access to conventional workplace saving. Significant numbers of this group will be relatively poorly informed about pension products and would benefit not only from clear information but also from strong guidance and protection.

- members of Group Personal Pensions, who will have been enrolled into the scheme by their employer. These savers are likely to be relatively poorly engaged with the detail of their pension arrangements and are not well placed to take decisions on fund choice or annuity purchase without extensive advice – as well as good information.

- sophisticated savers with experience of making their own saving and investment decisions. These savers take a high level of responsibility for their own financial arrangements and may relish the opportunity to use a Self-Invested Personal Pension (SIPP) for part of their retirement planning. Good information will be essential for them to make good decisions, but they will have much less need for advice and protection.

Lessons from the Pension Quality Mark

EIOPA might find it useful to draw on the work the NAPF has done in developing the Pension Quality Mark (PQM), which is a form of accreditation for good-quality DC pension schemes in the workplace.

The PQM now covers 182 pension schemes with over 300,000 members. Its standards cover governance, contributions and communications.

Although workplace pensions are, of course, different from PPPs, where members make decisions on an individual basis without the benefit of governance structures to protect their interests, many of the PQM's standards on communications would also be appropriate for PPPs. The key section of the PQM standards reads as follows:

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To meet the standard, communications must be clear, engaging and easy to understand. In addition, communications must take place at three specified stages of membership:

1. *At induction/joining, employers or schemes should provide engaging information that emphasises the scheme benefits and the need to take action.*
2. *On an ongoing basis, employers or schemes should offer face-to-face or over phone (such as group seminars, 1-2-1s or a helpline); or tailored individual information (such as access to pension account online); or regular generic information (such as newsletter or up-to-date intranet site).*
3. *When an employee nears retirement employers or schemes should ensure they receive information to help them consider retirement options.*

Although these standards are clearly designed for employees, they could easily be adapted to a PPP environment.

It is particularly important that charges are clearly and fully disclosed, since the level of charges is a key factor in determining the level of income in retirement.

The NAPF has been very active in pressing for high standards of disclosure of charges in workplace schemes, including disclosure both to employers and employees. The industry has drawn up a code of good practice on disclosure of charges to employers and has contributed to a code on disclosure to employee members of pension schemes. We would be pleased to share our understanding of these issues with EIOPA policy-makers.

Q27

In the pre-contractual phase, what ‘must’ PPP holders know about the personal pension product before purchasing and what “should” they know?

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	What further information should be available and easy to find?	
Q28	If a layering of information is introduced, what information should be included in the different layers outlined above (“must know”)? What information should be included in the subsequent layers (“should know” and “nice to know”)? What is the best way to make it easy for PPP holders to find their way through the different layers?	
Q29	<p>What key questions identified in the area of occupational pensions (Will my pension be sufficient for my demands and needs? If not, how much will the shortfall be and what can I do to improve the situation?) might be relevant for personal pensions?</p> <p>Again drawing on our experience of establishing the Pension Quality Mark for workplace DC schemes, we would suggest that the following information would be appropriate for members of personal pension schemes:</p> <ul style="list-style-type: none"> - potential benefits; - charges; - any flexibility over contributions; - tax treatment; - investment choices; and - how to shop around for the best annuity at retirement. 	
Q30	Will a KII/KID like document be appropriate for personal pensions as has	

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	<p>been advised by EIOPA on the review of the IORP Directive? What would be the behavioural purpose?</p> <p>As outlined in the previous answer, much of the information that would be useful for members of a workplace pension scheme would be equally useful for a member of a PPP.</p> <p>Given that PPP members have no access to the governance that is provided in well-run workplace schemes, it is particularly important that they have the full information needed to take the right decisions on contribution levels, investment and annuitisation.</p>	
Q31	<p>Could a good reference for risk-reward profiles be defined for personal pensions? To what extent do you find the risk reward used in UCITs Directive appropriate for PPPs? What are other examples to consider?</p>	
Q32	<p>For PPPs, could the investment horizon (as in "data target" funds) provide a better guidance for potential members, against the risk-reward ranking that is used for UCITs?</p>	
Q33	<p>What information should be provided in respect of costs? Should it be consistent between ex-ante and actually levied costs? Should it include investment transactions costs? What is the best way to present this information?</p> <p>The NAPF would define charges for the purpose of disclosure in line with the approach</p>	

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	<p>taken in Pension Charges Made Clear: Joint Industry Code of Conduct, which was produced by a working group of cross-sector organisation, including the NAPF.</p> <p>The definition in this code of conduct reads as follows:</p> <p><i>The "charge" refers to the total effect of all charges that are paid from the pots of scheme members (including both current and past employees). For the avoidance of doubt this includes all costs which count as 'ongoing costs' under the UCITS directive and all 'additional expenses' in insurance-based funds. In accordance with current FSA rules, trading costs on the investment portfolio should not be regarded as a charge.</i></p>	
Q34	Do you consider the presentation of illustrative pension projections a useful tool to understand the risks and performance of the product and state how and when pension projections should be provided if you think they would be useful?	
Q35	Which tools and type of information would best ensure consumers an optimal source of easily available and useful information with a view to providing an overview of personal pension entitlements?	
Q36	What are the mediums through which pre-contractual information should be presented (paper, other durable medium)? In which cases should the different mediums be used?	
Q37	To what extent should the format of information be standardized? What	

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	features and or choices that can be made determine the need for a more flexible presentation of pre-contractual information?	
Q38	What should be the requirements with respect to promotion material/marketing communications/advertising of personal pension products?	
Q39	What regulation can be a source of inspiration for personal pensions?	
Q40	What information should be actively provided in the ongoing phase?	
Q41	If a layering of information is introduced, what information should be included in the first layer (“must know”)? And in the subsequent layers (“should know” and “nice to know”)? What is the best way to make it easy for PPP holders to find their way through the different layers?	
Q42	Do you consider the presentation of illustrative pension projections a useful tool to understand the risks and performance of the product? How and when pension projections should be provided if you think they would be useful.	
Q43	What information should be provided on switching and before termination?	

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Q44	Should/could information cover the other pillars (i.e. overview of the first, second and third pillar pension)? Can this be achieved? If so, how?	
Q45	<p>What do you think of tracking services? What are good examples of tracking services?</p> <p>Tracking services, such as the UK's Pension Tracing Service, perform an important function in helping savers to trace the pensions they have accrued during a lifetime of working and saving.</p> <p>The EU is well placed to share best practice between its Member States and to help pension tracing services to link up and share information across national borders. This would be a practical and effective contribution that would strengthen the Internal Market by helping those who have worked in more than one Member State to trace their pensions.</p> <p>The NAPF recommends that this should be a priority for the EC.</p>	
Q46	To what extent should the format of information be standardized? What features determine the need for a more flexible presentation of on-going information?	
Q47	What are the mediums through which ongoing information should be presented?	

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Q48	What is the appropriate frequency for presenting on-going information (e.g. annually)?	
Q49	Which circumstances can require specific information provision (e.g. life events, contractual, taxation or regulatory changes, etc.)?	
Q50	Is there any kind of information (or additional information) that should be provided on request?	
Q51	Can on-going information requirements be connected with the implementation of tracking services? How?	
Q52	Should there be additional disclosure requirements for PPP holders that are approaching retirement? If so, what information should be provided? Include (e.g. regarding benefit payment options, taxation implications)?	
Q53	If a layering of information is introduced, what information should be included in the first layer ('must know')? And in the subsequent layers ('should know' and 'nice to know')? What is the best way to make it easy for PPP holders to find their way through the different layers?	

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Q54	Should there be additional disclosure requirements for the pay-out phase? If so, what information should be provided?	
Q55	If a layering of information is introduced, what information should be included in the first layer (“must know”)? And in the subsequent layers (“should know” and “nice to know”)? What is the best way to make it easy for PPP holders to find their way through the different layers?	
Q56	What level of protection is needed in the distribution process? What is needed in order to prevent conflicts of interest from adversely affecting the interests of PPP holders?	
Q57	Are there existing examples of EU regulation that cover this area already (for example the MiFID and IMD2 conflict of interest and rules on selling practices)? What would be the reasons to deviate from the level envisaged in IMD2 or MiFID? Are there requirements elsewhere that would provide appropriate protection for PPP holders?	
Q58	How should selling practices (including advice) for personal pension products be regulated?	
Q59	Is the concept of MiFID ‘suitability’²⁹ also fit for personal pensions? If not,	

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	how can it be made fit for personal pensions?	
Q60	What conflict of interest rules should apply (e.g. organisational/administrative requirements, together with disclosure and remuneration requirements)?	
Q61	What information requirements should apply with respect to the service rendered: what information needs to be given to the PPP holders in case of advice (e.g. firm status disclosure, assessment of demands and needs of the PPP holder)?	
Q62	Are, and if yes, what requirements are needed with regard to complaints handling?	
Q63	Are there existing examples of EU regulation that cover this area already? Would IMD1 – as well as the upcoming IMD2 – provide a good source of possible inspiration for distribution rules for personal pensions? What about MiFID I and II?	
Q64	What professional requirements would be appropriate? Is there a need for high level principles or more detailed regulation?	

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Q65	What should be the scope of these requirements? Should they apply on a continuous basis with a requirement of updating?	
Q66	Are there existing examples of EU regulation that cover this area already? For example the existing knowledge and ability requirements in Article 4, IMD1 and in the IMD2 proposal, defined as a result-oriented obligation where that knowledge and ability must be appropriate "to complete their tasks and perform their duties adequately, demonstrating appropriate professional experience relevant to the complexity of the products they are mediating". Would this be a good source of inspiration for personal pensions? What about MiFID I and II?	
Q67	What would be the reasons to deviate from the level envisaged in IMD2? Should factors such as taxation of pension' products play a role in determining the level of knowledge required?	
Q68	What could be the role of product regulation in the context of PPPs?	
Q69	Would you consider it useful if principles are established for the steps and considerations the industry should take into account before launching a new product or modifying existing products? If so, what would in your view be the main considerations that should be taken into account?	

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Q70	Would you consider it useful if certified products are introduced in the context of personal pensions? Should they be introduced at a European or a national level? What initiatives at European level do you consider to be useful?	
Q71	What role could be played by product authorization and or product banning, in order to protect holders against certain PPPs that are more likely to lead to poor pension outcomes?	