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EIOPA Questionnaire on the Consumer Trends Report 2018

Feedback Statement by the EIOPA Occupational Pensions Stakeholder Group

1. Background[1]

EIOPA is required under its Regulation to collect, analyse and report on consumer trends[2]. To date, EIOPA has produced six Consumer Trends Reports. The term "consumer trend" is not defined in the EIOPA Regulation. EIOPA therefore devised the following working definition:

"*Evolutions in consumer behaviour in the insurance and pensions markets related to the relationship between consumers and undertakings (including intermediaries) that are significant in their impact or novelty*"

The term "Trends" is understood in a broad sense: it covers, for example, evolutions in volumes of business or in the relationship between customers and undertakings/intermediaries, as well as the emergence of new products or services, or other linked financial innovations. The trend may already be consolidated for a number of years, but it may also be only emergent, with the possibility of becoming significant in the future.

The report aims to inform EIOPA in the identification, prioritisation and development of targeted policy proposals; EIOPA seeks to identify possible consumer protection issues arising from identified trends. Nevertheless, positive developments are also identified and highlighted.

2. General Question to the OPSG

Similar to previous exercises, EIOPA has requested the OPSG to provide informal input to the work on the Consumer Trends Report. In February 2018, the OPSG was asked to give input on the trends in the areas of consumer protection that Members have observed in 2017. The OPSG is invited to explain how the demand and/or offer for occupational and personal pension plans and products has increased / decreased / remained unchanged, during 2017.

Type of pension	Developments in demand / offer / financial innovations / market environment / consumer protection
Occupational pensions	**Stefan NELLSHEN, GERMANY, IORPs** Due to legal changes it is now possible in Germany to offer a pure occupational DC pension product. The specificities of these pension products have to be negotiated between the social partners (i.e. unions and employer associations). Since the process is starting right now, concrete and detailed product designs cannot be reported yet. However, this product will NOT be a DC product on an individual basis and the collective character will in any case be dominating. **Fieke VAN DER LECQ, THE NETHERLANDS, Academic** Blockchain pilots are employed in the administration of pension plans. The first pension fund is to migrate into the distributed ledger in the near future. Key players are the large pension delivery organisations. **Senka Fekeža KLEMEN, CROATIA, IORPs** During 2017, a modest increase was posted in the total numbers of members and assets under management in occupational pensions (locally called closed end voluntary pension funds). A new fund entered the market and now the total number of closed end funds amounts to nineteen (19).

1 The contributions bind only the individual members of the OPSG and do not represent the views of the group.

2 Article 9(1)(a) of the Regulation 1094/2010 establishing EIOPA

	Sonia MAFFEI, ITALY, Professional Association In 2017, Italy had a certain level of continuity. Both occupational and personal pensions give participants the chance to check at any time, via the web site, the asset accumulated into the pension funds. In the current year, the Italian rapporteur will assist in developing the use of the APP. **Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on SPAIN - ADICAE[3]** **Main figures for 2017:** According to INVERCO[4], 2017 closed with an asset volume of 111,077 million euros, 4% more than in 2016, and exceeds its highest historical figure for the sixth consecutive year. Shareholder accounts: the figure has fallen by 206,444 accounts to a total of 9.72 million accounts. Contributions and benefits: gross contributions were 4,970 million euros in 2017 and gross benefits were 4,543 million euros, and net inflows amounted to 427 million euros. Portfolio structure: pension funds have increased the weight of equity in their portfolios, which has now accounted for 33.6% of the total portfolio compared to 27.3% in 2016. Profitability: for the set of plans of the individual system, the profitability was 2.6%, and, in the long term (25 years), the average annual return was 4.5% (nominal return) for the total of the plans. **Main problems in the Spanish system:** - Pension plans have low profitability, commissions are very high and information is not very transparent. This low profitability (**almost zero, if inflation is taken into account)** is accompanied by high management commissions, most of them are opaque. A substantial part of the funds does not adequately inform their participants of the active management (purchases and sales) and of the amount of the commissions paid, nor the profitability of keeping the portfolio inactive. Therefore, it is difficult to maintain a reasonable confidence in the savers' expectations, given the scarce information and the high volatility of portfolio management. - The European Commission already denounced the regressive nature of the taxation of pension plans: the higher the level of income, the greater the tax savings. The system of fiscal protection not only discriminates against the contributors of lower incomes, but also generates a serious situation of inverted solidarity. As a consequence, citizens stop having significant amounts of public resources (from taxes) in favour of improvements in the income position of those who have more. The European Commission has therefore recommended the total suppression of the exemption in the IRPF of the contributions. - The Spanish government's attempts to "impoverish" the Public Pension System in favour of private pension plans. Among other NGOs and organisation, ADICAE denounced the clear and intentional movement of the Spanish government towards

3 Asociación de Usuarios de Bancos, Cajas y Seguros, Spanish Member of BETTER FINANCE
4 Asociación de Instituciones de Inversión Colectiva y Fondos de Pensiones

	favouring the private pension plans of the bank to ensure the sustainability of public pensions. - Legislation on pension plans does not guarantee any returns on contributions. - The absence of an efficient and specific regulatory body to guarantee the transparency of the private pension market and the protection of financial consumers in case of insolvencies. **Financial innovations** The Spanish pension system will not be sustainable in the future due to an ageing population, a high rate of unemployment and lower salaries. This is why some initiatives are emerging strongly, to try to lighten the load/burden or solve the current problem of the pension system with a complementary and free personal savings system. The Spanish Association of Fintech and Insurtech (AEFI) for instance has asked the Commission of the Toledo Pact of the Congress of Deputies to present a system of free savings compatible with the Spanish pension system, with the aim of easing the burden of the pension system. The savings would be carried out through the own purchases that each person makes daily and through certain activities that generate other benefits, such as recycling or energy savings. For this, it would be necessary to count on the collaboration of companies that are willing to participate on this new system. These companies would benefit from this collaboration since more clients would purchase their products knowing that they are contributing to improve their pensions. The money generated would be part of a free account (although with 'online' management expenses) that would follow the model of traditional pension or savings plans. In fact, according to AEFI's proposal, this plan would be like a traditional deposit, managed through a digital platform. There would be a cap on micro-contributions, linked to the declaration of income. The promoters of the initiative are aware that it could lead to perverse aspect: who consumes more can save more. It refers to people who can afford to buy high-end products, such as cars or other vehicles. Therefore, they propose that "a percentage of the income statement is the limit of free contributions that can be made to these savings products." Meanwhile, Pensumo already promotes saving for retirement. The user opens a piggy bank and begins to fill it with his purchase in affiliated stores or through challenges such as recycling and saving energy. At the moment, it is available in establishments in very few Spanish locations, such as Zaragoza, Vitoria, La Vall D'Uixó (Castellón) or Ejea de los Caballeros (Zaragoza). With the amounts that are added, a saving plan is created. **Kevin O'BOYLE, UNITED KINGDOM, IORPs** Focus is still on move from DB to DC with more and more IORPs closing to future accrual. DB provision may well reduce further in the future – although recent public reports suggest that alternative "hybrid" structures are being actively considered by some employers.

	Charlotta CARLBERG, SWEDEN, Professional Association There is ongoing work in Sweden regarding the legislation for occupational pensions. The market is eager to see the coming legislation, but it is still not published. 2017 has been a year of waiting for information. **Laure DELAHOUSSE, FRANCE, Professional Association** In a 2015 reform (Loi Macron), it was decided that DC Pension schemes, PERCO, should offer a lifecycle option as a default option. As a consequence, life cycle is gaining popularity among employees: the number of PERCO savers in lifecycle funds has increased by 36% in 2017. **Philip NEYT, BELGIUM, IORPs** The government is taking some initiatives to have more people to benefit from occupational pension plans. Legislative changes are introduced to allow more civil servant contractual employees and more self-employed employees to benefit from an occupational pension plan.
Personal pensions	**Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on GERMANY - BdV[5]** The German member of BETTER FINANCE indicated that several independent studies on unit-linked products have recently shown that German life-insurers often don't make the best choice for their customers with regard to the following criteria: • Underperformance of the mutual funds offered via unit-linked IBIPs; • Lack of cost-efficient or innovative ETFs offered via unit-linked IBIPs; • Bad rankings of the mutual funds offered via unit-linked IBIPs; • Offers of mutual funds in non-Euro currency without hedging mechanisms against currency volatility; • Bad conversion rates for life-long annuities with a calculated life expectancy of 94 to 97 years at minimum. Relevant press releases: FondsProfessionell, 27 February 2018, on F-FEX (Bad Homburg): • http://www.fondsprofessionell.de/drucken/news/produkte/headline/studie-deckt-maengel-bei-fondsgebundenen-lebensversicherungen-auf-141579/ • http://www.f-fex.de/cache/media/pdf/2018-02-27-studie_flv.pdf Map-Reports (Hamburg), Nr. 898 / 899, January 2018: • Fondspolicen-Bruttotarife: https://www.versicherungsjournal.de/daten/download/map-report_898_vorschau.pdf • Fondspolicen-Nettotarife: https://www.versicherungsjournal.de/daten/download/map-report_899_vorschau.pdf **Fieke VAN DER LECQ, THE NETHERLANDS, Academic**

5 Bund der Versicherten, German member of BETTER FINANCE

Blockchain pilots w.r.t. personal pension savings accounts. Several experiments and a hackathon on April 6-8, 2018.

Senka Fekeža KLEMEN, CROATIA, IORPs
Better economic environment and an increasing level of awareness of the need for pension savings have contributed to a significant increase of number of personal pensions (locally called open-end voluntary pension funds). Besides the rise in number of members, assets under management also reached a two-digit increase, meaning that the existing members are continuing with contributions into their personal pension accounts. As the difference between average annual rate of return on pension saving and interest in banks' savings account is becoming wider the pension savings are gaining momentum. As far as financial innovations are concerned, combined product designed from pension savings and life insurance was offered to the market. The packed product has an advantage in that insures members in case of death or accident, paying them an agreed amount on the one hand, and on the other hand offering them advantages of pension savings which entail tax incentives, government subsidized funds and performance.
With regard to mandatory pension savings in the second pillar (1st pillar bis pensions), they have been increasing in terms of members and assets under management. Steady rise in assets under management in mandatory pension funds led to an increase in their stake in GDP and now they account for 25,2% of GDP (according to preliminary data for nominal GDP)

Sonia MAFFEI, ITALY, Professional Association
- similar to the answer for the above section.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on EU LEVEL
At EU level, BETTER FINANCE refers to their research report on the real returns of long term and pension savings in the EU published last October[6], covering 86% of the EU population over a 17 years period. The 2017 edition once more draws attention to the fact that too many pension products are massively underperforming capital markets, and still deliver low or even negative long-term real returns, despite very good returns for both equity and bond markets since 2011.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on FRANCE – CONSUMER PROTECTION ISSUES
The findings of BDV in Germany on unit-linked IBIPs are confirmed for France. With interest rates very low, pension schemes are under pressure, and several are not increasing their annuities in pace with inflation, which continues however to be very low. The participants of the two biggest personal pension products (about 800 000 participants) have lost between 17 and 21% of the purchasing power (real value) of their annuities and rights to future annuities since 2002. In addition, this information is not disclosed by the sponsors, especially in their information and advertisements to would-be subscribers.

One of the two is also not disclosing to participants and to would-be participants that it is not sufficiently funded by at least € 1.3 billion (using a derogatory 1.5% discount rate for liabilities). This information is only to be computed (not disclosed) by using

6 BETTER FINANCE Pension report : The Real Return, http://betterfinance.eu/fileadmin/user_upload/documents/Research_Reports/en/Pension_Report_2017_-_Full_Report_-_Online_Version.pdf

	other numbers to be found in a footnote in very small print and in technical verbiage at the very bottom of the home page of the website of the provider. It is very likely that the vast majority of readers will never see it, and among those who do very few will understand the issue (see https://umr-retraite.fr/nos-offres-solutions-nos-offres/corem.html). This issue has already been reported several times to the NCA. The other one, which advertises that the nominal value of annuities cannot go down once the contribution is made, has nevertheless reduced them for all participants who will retire after the age of 60 (for example a participant who plans to retire at 65 by 2026 has seen its nominal annuities rights reduced by 17% since 2014. This raises the issue of the transparency and fairness of the annuities schemes in several pension products. **Jan SEBO, SLOVAKIA, Academic** Analysis of potential savers´ decision on voluntarily entering the 1bis pillar in Slovakia (study of the Institute for Fiscal Policy at the Ministry of Finance: http://www.finance.gov.sk/Default.aspx?CatID=11386 (in Slovak language) **Kevin O'BOYLE, UNITED KINGDOM, IORPs** DC continues to expand but there is consolidation – Zurich to Scottish widows, Standard Life pension business to Phoenix Group. Master Trusts growing and now being regulated more. Regulator increasingly focused on better outcomes than on regulating compliance. **Charlotta CARLBERG, SWEDEN, Professional Association** Since there is no right for deductions for personal pensions, this market is very slow. Nothing happened during 2017. **Alexandru CIUNCAN, ROMANIA, Representative of beneficiaries** The main challenge of the pension system in Romania is the political factor. After there were rumours that Pillar II would be nationalized, on 8 November 2017, the Romanian Government approved the decrease of contributions payed for the 2nd Pension Pillar, from 5.1% to 3.75%, starting in 2018. In 2008, when the mandatory private pensions system (the Second Pillar) was launched in Romania, the graphic indicated a 0.5% increase of the contribution annually, from 2% of the gross income of employees in 2008 up to 6% in 2016. However, due to increasingly high budgetary pressures, authorities decided a few times to postpone the annual increase. Multiple national authorities issued warnings regarding this action. In 2017, Pension Pillar II celebrated 10 years of existence, during which it proved to protect the contributions of the participants and brings them additional value, stimulates the national economy and represents an important local source of financing of public projects - Over 90% of the Pillar II investments are made in Romania. - According to APAPR (Romanian Pensions Fund Association) on the first 10 years of compulsory private pensions in Romania, 75% of Romanians are expected to receive a pension of more than 500 euros, although more than a third of them do not save at all. - Pillar II had annual average yields of 9.1% in the 10 years since its inception for its 7 million contributors. (end of September 2017) – one of the best European yields throughout the last decade (OECD; Better Finance)

In addition, the OPSG is invited to provide input on the following topics:

3. Sustainable finance

Sustainable finance, broadly comprising environmental, social and governance (ESG) issues, is becoming increasingly prominent. It can be therefore of relevance to pension funds, as institutions with long time horizons. In particular, under IORP II Directive, IORPs are encouraged to take into account the potential long-term impact of investment decisions on environmental, social, and governance factors. At the same time, there can be different ways in which pension funds can implement these factors into their activity. Please indicate if you have observed in your jurisdiction development of pension schemes emphasising the above sustainability factors and how they have done so (e.g. by requesting the preferences of members or beneficiaries or by taking into account sustainability criteria when selecting investment assets). Where relevant please differentiate between personal and occupational pensions.

Stefan NELLSHEN, GERMANY, IORPs
More and more pension institutions are including ESG criteria into their investment strategies and decisions (as being one aspect amongst others). They are also often legally obliged to report (e.g. in case of German Pensionskassen within their annual report) which role ESG aspects play within their investment behaviour. For this information there is no standard format yet, it can be drafted individually by the respective IORP. The single pension institutions develop also individual criteria and policies regarding the integration of ESG criteria into their investment behaviour.

Fieke VAN DER LECQ, THE NETHERLANDS, Academic
There is a lively debate among pension funds on sustainable investing. All funds have to report in their annual report about their efforts in this respect (pension code). The NCA encourages sustainable investment and facilitates the exchange of expertise by organising round tables and working groups.

Senka Fekeza KLEMEN, CROATIA, IORPs
Transposing IORP II Directive into national legislation will require subsequent changes in the Act on voluntary pension funds but a proposal for changes has not been put into legal procedure yet. Therefore, it is up to Pension funds management companies (IORPs) to foresee to what extent new provisions might affect their operations and how they will implement them. Furthermore, taking into consideration ESG factors in investment decision-making process poses an even more challenging issue due to the lack of available financial instruments on domestic market. It is obvious that IORPs are mostly trying to find best practise on international market. Requesting the preferences from members or beneficiaries in terms of applying ESG factors into investment policy is not realistic due to a still low level of financial literacy. The level of knowledge about sustainable investment should be increased using financial literacy as a platform.

Sonia MAFFEI, ITALY, Professional Association
In 2017, the Italian rapporteur had new initiatives on ESG factors and sustainable finance. On this matter, the Italian regulation is already compliant with IORP II directive provision. Occupational pension funds consider these factors in the engagement procedures and inside the tender notice they publish for the manager choice. They Italian representative will assist more and more by increasing consideration of these factors as part of the investment choice, and sometimes they are even considered a “requirement” for the manager choice.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on EU LEVEL
On the 8th of March, the European Commission released its Action plan on Sustainable Finance. One of the actions suggested by the European Commission is to create labels for green financial products and an EU Ecolabel framework for certain financial products.

As part of its research on “Closet Indexing” (falsely active funds), BETTER FINANCE found out that a fund not only advertised as SRI fund (using ESG criteria to select stocks), but also boasting an official Government “SRI” Label, was actually highly suspected of being a closet index fund, and a very poorly performing one.

The results of the study revealed that the fund’s historic performance before fees over the last five years mimicked very closely the corresponding “mainstream” benchmark (i.e. that include all stocks, including those supposedly excluded by its ESG selection approach). There was no significant difference in performance at any given time between the SRI fund and the mainstream equity market segment. The impact of the ESG criteria stock selection was not visible at all over that period.

For that reasons and based on its study, BETTER FINANCE believes that:

- To be relevant, an Eco Label must first ensure exemplary compliance with EU investor protection and information rules
- The fund claiming to be ESG funds must benchmark themselves against objective mainstream benchmarks to allow investors to check if their ESG approach made any difference over the long term and if they created any long-term value for EU savers.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on FRANCE
In France, several individual pension schemes have not asked their participants about their preferences but have taken into account sustainability criteria when selecting investment assets. Unfortunately, those schemes are also the least transparent to pension savers. One of them has been condemned to indemnify the participants who complained, and there are still complaints pending.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on SPAIN – ADICAE
The Spanish Group for the Green Growth is an association of companies whose objective is to foment the public-private collaboration and to advance jointly in the environmental challenges. The solutions in the matter of mitigation and adaptation to climate change, the decarbonisation of the economy or the promotion of a circular economy are key in a prosperous society and will come hand in hand with the business fabric. Through the GECV platform, the participation of companies in the most relevant debates on the subject at a national and international level is promoted, information is shared, and opportunities are identified for Spanish companies.

The Spanish Banking Association applauds the recommendations to move towards a system that standardizes the identification of sustainable assets made by the group of experts appointed by the European Commission to analyse how to advance at European level in this area. The banking employers' association indicates that this initiative was already among the proposals of the European Banking Federation that, in addition, sees it necessary to improve the framework to disseminate non-financial information and develop common standards of sustainability.

BBVA (Banco Bilbao Vizcaya Argentaria) is the most active bank in Spain participating in the emission of sustainable bonds. Last year they participated in the issuance of bonds worth € 10,600 million and played a book runner role in the issuance of € 1,500 million in bonds. At the level of loans, they are innovating with unpublished products. They are the first bank lending in a project finance with a certified green loan format and also the first one making a syndicated green loan. They are also the agent bank in the largest green loan in the world, which has been signed with Iberdrola for € 5,300 million. In this loan, the interest rate is indexed to what is the emission of CO_2 from Iberdrola, in such a way that the lower the emissions, the better the interest rate will be. The truth is that the market is becoming quite sophisticated in this type of products.

Kevin O'BOYLE, UNITED KINGDOM, IORPs
In practice UK trust based IORPs are increasingly considering ESG in investment processes. There is little evidence in such scheme whether beneficiary preferences taken into account as benefits not linked to investment returns. In personal pensions, greater disclosure of ESG factors and range of funds offered with these characteristics made available but it is for members to select such funds. Not typical for default funds to offer ESG range.

Charlotta CARLBERG, SWEDEN, Professional Association
These questions are of high importance and almost all insurance companies that offer occupational pensions take these factors into account when selecting investment assets.

Philip NEYT, BELGIUM, IORPs
Since 2004 Belgian Pension Funds have an obligation to report to what extend Social, Ethical and Environmental aspects are taken into account in their investment strategy. The Pension Fund sector supports the importance of ESG factors and acknowledges the importance of global changes to temper climate change, to adapt social elements and to improve governance. ESG factors, while being unclear in terms of definition and categories still require a lot of further clarification. We also see an increase of ESG factors being taken into account in investment decisions.

Please indicate whether pension funds in your jurisdiction increasingly take into account the impact of their investment decisions on ESG factors:

Germany – YES
Belgium – YES
The Netherlands – YES
Croatia – NO
Italy – YES
France – YES
Spain (BETTER FINANCE) – YES
SLOVAKIA – NO
UNITED KINGDOM – YES
SWEDEN – YES

4. PEPP

The work on **Pan-European Personal Pension Products (PEPP)** aims to introduce a product with the same standard features wherever they are sold in the EU and to be offered by a broad range of providers, such as insurance undertakings, banks, occupational pension funds, investment firms and asset managers. Providers would be able to develop PEPPs across several Member States, to pool assets more effectively and to achieve economies of scale. Please set out your views on how these products will impact the pensions market and what are their benefits and risks for consumers.

Stefan NELLSHEN, GERMANY, IORPs
An answer to this question would be very much speculative since the draft of the product so far is still very abstract and general. The OPSG has described some main issues in its position paper regarding the PEPP. Very much will depend on the tax treatment of the PEPP and also on the question regarding the duty to offer a compartment for any member state.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on GERMANY - BdV
In Germany the association of the insurance industry (GDV) and the association of the insurance brokers (BVK) are completely hostile to the introduction of PEPP. From their point of view, PEPPs have primarily to be considered as saving or investment products, because the proposed regulation does not include any obligatory biometric risk coverage. Additionally, there are already enough product offers for private retirement provision on the home market.

- GDV press release of 29 June 2017:

  https://www.gdv.de/de/themen/news/eu-vorschlag-zu-pepp-bringt-altersvorsorge-nicht-voran-10972

- BVK press release of 05 July 2017:

  https://www.bvk.de/themen/publikation/pressemitteilung/eu-weite-altersvorsorgeprodukte-sind-uberflussig.459/

BVK even asserts that due to the low interest phase there have to be introduced additional state allowances in order to build up sufficiently large capital reserves for the new PEPP at least in the beginning. BdV did not find any hint for this in the proposal of the Commission of 29 June 2017. The Commission (and EIOPA) should clearly reject this kind of misleading assertions.

On the contrary the second chamber of the German federal parliament, the Bundesrat, adopted a favourable position related to PEPP in November 2017:
https://www.bundesrat.de/SharedDocs/drucksachen/2017/0501-0600/588-17(B).pdf?__blob=publicationFile&v=5

The Bundesrat underlines that there are detrimental developments on the home market for pension products (overly high costs, non-transparent terms and conditions which are difficult to understand for the consumers). Therefore, in order to be successful, PEPP must include provisions stipulating a cap of costs for administration and distribution and regulating a minimum level of transparency of the terms and conditions of the contracts (with regard to early withdrawal, exemption of premiums, cancellation of contract, nullification of contract in case of breach of information duties by the product manufacturer or distributor). A model for these minimum standards can be found in the German legislation for Riester and Rürup pensions (Altersvorsorge-Zertifizierungsgesetz).
But BVK does not agree at all with the proposal of the Bundesrat that there should only be one obligatory pay-out option (annuity) for PEPP. This is not compatible with the fundamental consumer's right of freedom of choice.

Michaela KOLLER, Insurance Europe, IORPs
It remains to be seen whether the PEPP will succeed in achieving its high economic and social ambitions. As currently tabled, the EC proposal contains a number of shortcomings that might challenge the PEPP practical feasibility thus its impact on national markets. Discussions are still ongoing, and both the European Parliament and Council have committed to deliver a workable PEPP solution attractive to both consumers and providers.

If adequately calibrated, the PEPP could help raising awareness and fostering further private pension savings in Europe which is crucial given the current demographic trends and the increased pressures challenging the sustainability of public pension systems. It should also be noted that the PEPP impact will be different from a country to another depending on how the national pension system is already structured.

However, based on the current state of the proposal, the PEPP creates the very real risk that levels of consumer protection will vary depending on the PEPP provider. Article 5 of the proposed regulation introduces the possibility for the PEPP to be distributed by a broad range of providers falling under very different supervisory and regulatory frameworks. For instance, the Solvency II regulatory regime that applies to insurers was specifically designed to ensure the highest level of protection for consumers purchasing long-term, savings pension products. A claim that consumers receive an equivalent level of protection in their PEPP, irrespective of the provider, can only be made if all potential providers are subject to the same prudential rules. This is currently not the case.

This concern is particularly accurate when it comes to the discussions on the PEPP default investment option. The EC proposal introduces a default investment option aiming at ensuring “capital protection” meaning that PEPP savers should “recoup the capital it invested”. The ambiguity over this wording has led to a debate at EU level as to whether “capital protection” could only be achieved by guarantees backed by capital or if it could be done via conservative investment strategies such as life-cycle. However, only guarantees backed by capital requirements can assure that the saver will at least recoup the money it has invested. life-cycling relies on the concept of “de-risking” which does not mean “low risks” and even less “no risks”. With the latter, investors are exposed to both losses and gains. Shall life cycling strategies also be eligible to the PEPP default investment option, that would mean that savers would be misled by a single PEPP “European label” granted by EIOPA whereas in practice they would be offered two very different kind of products, entailing different level of risks and therefore of protection.

Bernard DELBECQUE, EFAMA, Professional Associations
The PEPP is part of the solutions to address the pension gap. In the European Commission’s impact assessment, the personal pension product markets are expected to develop from the current level – around 700 billion euros – to either 1.4 trillion euros in the baseline scenario, or 2.1 trillion euros if the PEPP is launched and receive the same tax treatment as existing PPPs. This means that the introduction of the PEPP would contribute to 50% of the potential increase of the total personal pension market between now and 2030. This sort of impact, which, let us not forget, depends on the tax treatment that Member States will grant to the PEPPs, is not trivial.

There will be several drivers behind this growth:

- The PEPP will offer savers an additional option to save for retirement, with high quality product features.
- The PEPP will increase competition in the 3rd pillar pension market and allow providers to achieve economies of scale.
- Consequently, savers will benefit from lower costs and improved returns.

It is widely recognized that the PEPP will produce its positive effects if two main problems can be addressed.

The first problem relates to the portability of the PEPP. It is unrealistic to assume that every single PEPP offered by all PEPP providers should be fully portable across all Member States. Against this background, the OPSG argued that PEPP providers should be free to decide in which Member States they are able to offer the portability service[7]. The ECON Committee Rapporteur, Sophie IN ’T VELD, supported this position in her draft report, requesting that PEPP providers offer at least the national compartments listed in the contract.

The second problem relates to the default option that the PEPP should offer. As it currently stands, the Commission’s proposal suggests that the default option should offer a capital guarantee. If this provision remains unchanged, only insurers will be able to offer the PEPP. This will have a number of consequences:

- First of all, the impact of the initiative on competition, fees and consumer choice will be very small.
- Secondly, as a consequence of Solvency II, insurers will mostly invest in “safe” assets, i.e. government

[7] The OPSG position paper on the PEPP can be downloaded from EIOPA website at the following address: https://eiopa.europa.eu/Publications/Stakeholder%20Opinions/OPSG-17-22_OPSG_Position_Paper_PEPP_Proposal.pdf.

bonds. This would go against the CMU's goal to foster investment in equity.

- Thirdly, the return offered by the default option will be very small.

The problem for consumers is further amplified by the fact that the capital protection provision is stipulated in nominal terms, "*after deduction of all fees, charges and expenses*". It is therefore not surprising that consumer organizations have reservations against mandatory guarantees.

Concerning the question whether the PEPP should offer a default investment option with a financial guarantee, or whether the default option can rely on a de-risking life-cycle strategy, an independent study by the SDA Bocconi School of Management "Consumer protection and the design of the default option of a pan-European Personal Pension Product" illustrates the advantages of life-cycle investment solutions in terms of performance enhancement and capital protection.[8]

It shows in particular that life-cycle strategies tend to generate significantly higher returns than guaranteed products, with nearly all (99.9%) of the savers ending up with a pension wealth higher than the inflation-adjusted capital invested.

Interesting enough, the OPSG did not wait for the results of the Bocconi study to recommend that the PEPP default option could take the form of an investment option with either a "capital" guarantee or a de-risking life-cycle investment strategy.[9]

In closing a couple of other considerations may be relevant. One of the key elements for the success of the PEPP is going to be trust. An important reason behind the lack of trust in pension products is the fact that many people believe that they do not receive an adequate return on their savings. To address this concern, there must be full transparency with regards to fees, commissions and charges to inform consumers about the total cost of the PEPPs and shift consumer demand towards the cost effective PEPPs. EIOPA should enhance the transparency in the PEPP market by publishing the evolution of the net performance of the PEPPs and assess the extent to which PEPPs are offering better value for money than existing personal pension products.

Concerning the pay-out options, personal situations of individuals and national practices differ. Hence, the PEPP success will also depend on whether the Regulation leaves the choice of the pay-out option to the PEPP saver. Concerning more specifically life-annuities, they are not relevant for all individuals, especially in Member States where public pension regimes are able to provide an adequate standard of living in retirement. Likewise, a life-annuity may not be interesting for pensioners who only invest a small amount of capital in the PEPP, because the level of the annuity would be too small compared to the cost incurred by this type of pay-out option.
Finally, concerning the level of protection offered by PEPP providers, the OPSG has agreed that the "same risks, same rules" principle should apply to ensure a level-playing field between all providers offering PEPPs with minimum return guarantees and/or biometric risk coverage[10]. Following this approach, PEPP providers that will not offer this type of coverage should be allowed to operate under their specific regulatory regime. This will pose no problem because each European sectoral legislation has been tailored to offer consumers a high degree of protection, taking into account the specific risks faced by each type of financial undertakings.

Fieke VAN DER LECQ, THE NETHERLANDS, Academic

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8 The study can be downloaded at the following address: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3142243.

9 See OPSG position paper on the PEPP.

10 See OPSG position paper on the PEPP.

In the Netherlands, there is no consensus on the feasibility and benefits of PEPP. Some consider it of no added value to the products and plans offered already, while others consider the PEPP an interesting option for self-employed.

Senka Fekeza KLEMEN, CROATIA, IORPs
Although personal pensions have been available on the Croatian market for almost fifteen years, the coverage is still far from satisfactory. Regardless of the fact that advantages of this type of savings are manifold: tax incentives, state supported funds and quite a high average annual rate of return, the average assets on the members' account are still low.
Having said that, the Croatian rapporteur does not believe that the standardised product PEPP will have a remarkable impact on the Croatian market due to its similarity with the existing domestic product. The portability is the only feature distinguishing PEPP and domestic product, on condition that PEPP gets the same tax treatment, giving additional benefit to members who change their residence.

Sonia MAFFEI, ITALY, Professional Association
The Italian rapporteur believes that PEPPs, by improving competition among different providers, will reduce costs and give savers the chance to have more choices. These products will help the savers to invest more in retirement products, especially in those countries where 2nd and 3rd pillar products are not so developed. The Italian part does not see any overlap with 2nd pillar products as PEPPs refer to a different market.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on EU LEVEL
The Global pension's gap (estimated at $70 trillion) represents today the biggest financial issue faced by EU citizens. There is a high risk for future pensioners to see their replacement rates decreased.

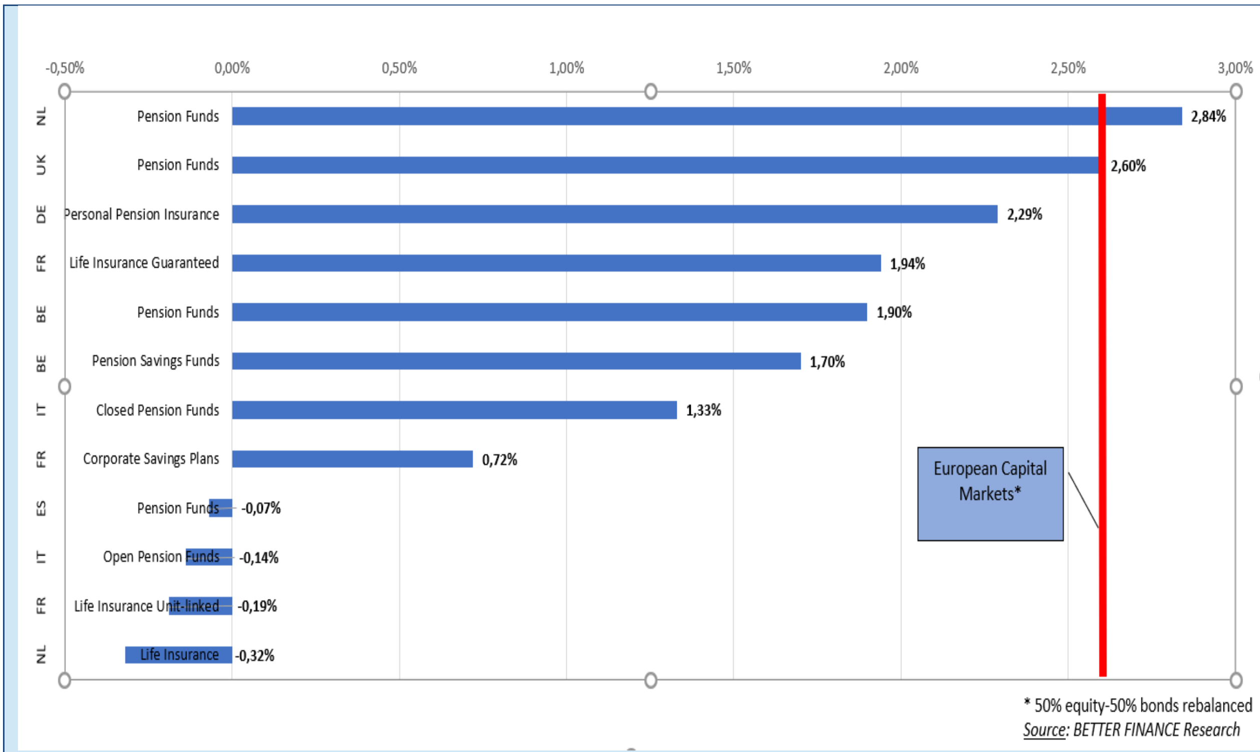
BETTER FINANCE therefore strongly supports the introduction of the Pan- European Pension Products (PEPP). However, this PEPP must provide pension adequacy through decent long term returns to pension savers.

Based on its research report on the Real return of Pension products , BETTER FINANCE pointed out that the "default investment option" proposed by the (renamed Basic PEPP by the ECON Committee rapporteur) must be safe and simple:

- Safe: "capital protection" should apply to pension savings before accumulated fees charged by financial institutions to pension savers, and in real terms, i.e. after inflation
- Simple: the product can be subscribed without advice and sold online by Fintech as well as by traditional financial intermediaries.

A "safe" option should protect as much as possible the real value of pension savings at the time of retirement and beyond.

In fact, as shown in the graph below, after fees and inflation, most pension products underperformed the European Capital market.



The inclusion of a default option that is safe (capital protection and life cycle) and that can be subscribed without advice would represent a benefit for consumers. The default option must be safe and should at least preserve the capital invested.

The success of the PEPP will depend on the fiscal treatment applied by the Member States and on whether they will discriminate PEPPs against national pension products, thus making PEPPs suffer from the Not Invented Here syndrome. Therefore, BETTER FINANCE supports the recommendations of the ECON Rapporteur who called on Member States:

- to grant the same relief to PEPP as the one granted to national personal pension products (even if the product does not match all the national criteria),
- to grant a specific tax relief to PEPP, harmonized at Union level, to be laid down in a multilateral tax agreement between MS
- to grant specific subsidy or premium to PEPP savers, in the form of a fixed amount or fixed percentage.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on FRANCE
Pension savings are currently going through a governmental reform project aiming at simplifying and improving performance through increased investments in equities. Unfortunately, this project does not take into account the earlier EU PEPP project so far. And PEPP is very little if at all debated in political circles and in the specialised media.
All stakeholders point to the inadequate calibration of Solvency II capital requirement for long term and retirement liabilities of insurers, which makes it very difficult for them to invest significantly in long term performing assets such as equities. French insurers have no more than 6% of their own-risk assets invested in equities today. As a consequence, and given the very low interest rate environment, the majority of long term life insurance (which is used primarily for retirement purposes) products will probably deliver a negative return this year in real terms (after inflation and taxes).

Laure DELAHOUSSE, FRANCE, Professional Association

In the pending pensions savings reform, the PEPP regulation is taken into account but it is still too early to see the conclusions.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on SPAIN (ADICAE)
ADICAE, in principle, welcomes the PEPP Regulation as a possible way to increase private pension coverage and the allocation of funds to long-term investments. Notwithstanding this positive overall assessment of the Proposal, ADICAE considers that PEPPs are more likely to attract a limited number of groups, in particular, professionals working in different Member States throughout their working lives and self-employed workers; while low-income workers with unstable or temporary contracts are unlikely to be able to afford an individual pension product. In any case, ADICAE emphasizes the need to protect consumers and mitigate risks for savers throughout their working life and in retirement.

Jan SEBO, SLOVAKIA, Academic
There are several initiatives on regional markets (Czechia – Slovakia, Poland, Hungary) to introduce low-cost simple saving products via robo-advisors. However, further work has been slowed down due to the uncertainties about the compartments and the extent to which the providers will be obliged to provide 28 tax compartments for the clients.

Kevin O'BOYLE, UNITED KINGDOM, IORPs
Without resolution of tax issues, unlikely to result in increased participation in PEPP's as it is doubtful that the economies of scale in pooling assets will outweigh the loss of tax relief

Charlotta CARLBERG, SWEDEN, Professional Association
The biggest risk with PEPP is that the possibility to have tax deduction differs between member states and it is not deductible in Sweden. The risk is that consumers will not understand the risk in the product and that if there is a guarantee, it has to be given by a producer that has enough capital to fulfil the guarantee.

5. Trends in providing information to consumers

Issues with the disclosure of information to the beneficiaries of pension funds have been reported as a recurrent trend from the beginning of the consumer trends work by several Member States. Please indicate if you have observed in your jurisdiction in recent years any developments as regards the type, quality and format of the information provided to individuals. If possible please also refer to any shortcomings in the area of disclosure of information to beneficiaries of pension funds that you may have identified and if so, how the risk of consumer detriment in this area could be mitigated.

Stefan NELLSHEN, GERMANY, IORPs
In Germany there have already been relatively far reaching duties to inform beneficiaries about their IORP, their pension product and also their personal (guaranteed and/or potential) future retirement income out of such pension plans. The German rapporteur currently cannot see any shortcomings. The danger comes from the fact that in Germany there is already so much information provided to beneficiaries that it is hard to digest and to understand for them, and that for this reason the really important part of the information is not properly understood.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on GERMANY - Bund der Versicherten (BdV)
In February 2018 the German Association of the Insured (BdV) won a court case against the Bavarian life-insurer "Nürnberger Lebensversicherung". The court of appeal confirmed that unit-linked annuities, which are state-subsidized, have to fulfil the same level of transparency and understandability requirements as

those which are not state-subsidized. For non-subsidized annuities the Federal Court of Justice (BGH) had already fixed these minimum transparency requirements in 2005.
Therefore 14 clauses of these contracts are legally void with regard to acquisition costs, cancellation costs, calculation of surrender value and number of pay-outs in the case of exemption of premiums. Explicitly the court of appeal permits only that the clause related to the calculation of acquisition and distribution costs, if the period of capital accumulation is less than five years, may again be submitted to the Federal Court of Justice for an ultimate decision.

- BdV press release of 6 March 2018:

  https://www.bundderversicherten.de/presse-und-oeffentlichkeitsarbeit/pressemitteilungen/bdv-klage-gegen-nuernberger-lebensversicherung-erfolgreich

Fieke VAN DER LECQ, THE NETHERLANDS, Academic
The 3-layered pension communication is fully implemented and successful. Therefore, most pension funds would regret if European standards require them to go back to 1-layer communication.

Senka Fekeza KLEMEN, CROATIA, IORPs
The disclosure of information to members has been improving continuously Besides information on all costs incurred in the scheme, nominal and real return for different periods, members have access to a quarterly report, which shows detailed investments exposure to financial instruments, currency exposure, breakdown by countries and type of assets.
On the other hand, the disclosure of information to beneficiaries is on an individual contractual basis and is more related to cost structure of defined benefit scheme.
There is room for improvement as more members are approaching the retirement age and the quality of information disclosed to beneficiaries is becoming more important.

Sonia MAFFEI, ITALY, Professional Association
Italian pension regulations on information disclosure is already complaint with the IORP II directive provisions. However, in 2017, Italy had new rules from COVIP (the Italian Supervisory Authority on pensions) designed to get more info from the potential members. Thanks to the auto evaluation questionnaire, pension funds can get more info about the savers' risk profile, investment choices and so on. This year some pension funds will provide for an *ad hoc* questionnaire on ESG factors and sustainable finance.

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on EU LEVEL
At the EU level, BETTER FINANCE has been asking for years now for more transparency and disclosure to savers and investors.
As shown in many of our research studies [11], EU citizens as savers and investors are left in the dark with respect to the past performance and costs of the financial products they invest in. BETTER FINANCE therefore welcomed the request from the European Commission to the European Supervisory Authorities (ESAs) to issue recurrent reports on the costs and past performance of the main categories of retail investment, insurance and pensions products.
However, BETTER FINANCE has warned the Commission[12] regarding the scope of the request. Indeed, it seems that insurance-based occupational pension products are not included, such as defined Contribution (DC) non-insurance-based Occupational Pension Schemes ("IORPs").

11 See among others BETTER FINANCE's Pension report

12 See BETTER FINANCE's press release : http://betterfinance.eu/fileadmin/user_upload/documents/Press_Releases/en/PR_-_ESAS_FINALLY_ASKED_TO_REPORT_ON_THE_COST_AND_PAST_PERFORMANCE_OF_LONG-TERM_SAVINGS_PRODUCTS_-_201017.pdf

Guillaume PRACHE, BETTER FINANCE, Representative of beneficiaries on SPAIN – ADICAE
The current reform of pension plans in Spain does not address the real problems faced by the sector. The commissions applied by financial institutions to savers are high and measure proposed the Ministry of Economy, i.e. the cap at 1.25% is insufficient. Citizens will continue to assume maintenance costs much higher than those in other European countries, and there is a lack of objective and complete information in this regard.

Therefore, the reform being promoted by the Minister of Economy is benevolent with banks and financial institutions, since the industry will continue to achieve high profitability in the management of pension plans.

Another key issue is the lack of transparency of the public pension system, which prevents workers from properly planning their retirement, the information provided to workers must be more transparent and easily accessible with more transparent information about their future retirement income private pension plans could more attractive.

Jan SEBO, SLOVAKIA, Academic
Most of the emphasis is focused on the introduction of PBS with the idea to broaden the approach for other personal saving schemes in order to unify the information requirements for existing savers, members.

Kevin O'BOYLE, UNITED KINGDOM, IORPs
In UK, the type, quality and format of benefits statements fine but are only issued once a year and generally binned or not reviewed. Most participants use technology to go online to view pension benefits rather than annual snapshot from benefit statement which is inevitably out of date by time of receipt. In DC, world the inertia and lack of engagement means that benefit statements are more of a compliance tool rather than a way to actively engage with participants

Charlotta CARLBERG, SWEDEN, Professional Association
The IDD-regulation will have impact on the disclosure in Sweden.