Consultation paper

on

EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)

Comments are most helpful if they:

- respond to the questions stated above and in annex II, where applicable;
- contain a clear rationale; and
- describe any alternatives EIOPA should consider.

Please send your comments to EIOPA in the provided Template for Comments, by email CP-16-001@eiopa.europa.eu, by 26 April 2016.

Contributions not provided in the template for comments, or sent to a different email address, or after the deadline will not be processed.

EIOPA welcomes comments on the Consultation Paper on EIOPA's advice on the development of an EU Single Market for personal pension products (PPP), focussing on:

Q1: Would PPPs benefit from harmonisation of provider governance standards? What should be the basis for provider governance standards for PPPs? Do you agree with EIOPA's proposals?

Q2: Would PPPs benefit from harmonisation of product governance rules? What should be the basis for product governance rules for PPPs? Do you agree with EIOPA's proposals?

Q3: Would PPPs benefit from harmonisation of distribution rules? What should be the basis for distribution rules for PPPs? Do you agree with EIOPA's proposals?

Q4: Would PPP benefit from harmonisation in disclosure rules? What should be the basis of these rules? Do you agree with EIOPA's proposals?

Q5: Are you aware of any differences in prudential regimes that would lead to an unlevel playing field amongst PPP providers? Do you agree with EIOPA's view not to add specific capital requirements for PPPs?

Q6: Are further supervisory powers – tailored to PEPP – necessary? Do you agree with EIOPA's proposals?

Q7: Do you agree with EIOPA's assessment of the policy options' impacts?

Taking into account further analyses and in particular stakeholders' input, EIOPA now proposes a PEPP that is characterised by the following features:

- Standardised information provision based on the proposals of a KID within the PRIIPs framework
- Standardised limited investment choices and defining one default "core" investment option, which takes into account the link between accumulation and decumulation
- Regulated, flexible, biometric and financial guarantees
- Regulated, flexible caps on cost and charges
- Regulated, flexible switching and transfer of funds
- No specification of decumulation options

AAE procedure

- Comments until 6 April
- Draft 12 April
- MA approval 19 April
- Due 26 April

2. Addressing failings of an inefficient market

Individuals have been proven to manifest undesirable behavioural conduct based on errors of cognition (bounded rationality, framing bias) or emotional influences (status quo bias, regret aversion bias). Very often financial studies have demonstrated that suboptimal choices are made in the context of lack of information and lack of perfect knowledge. In the case of personal pensions, consumers find it difficult to make optimal choices when confronted with a complex, exhaustive, difficult to understand and multiple choice system that has a utility beginning in the distant future (triggering an inner conflict of opting for a long term goal in favour for short term gratification). A well developed, straightforward, easy to understand and transparent personal pension product would, in this situation, make a notable difference for the future of consumers and personal pensions systems alike.

2.1 Setting appropriate provider governance standards for personal pensions

For PPPs, EIOPA thinks that the scope for the fit and proper requirements must be defined in the first place. The person or group of persons effectively running the business, ultimately bearing the responsibility or holding a key function in the value chain, and should therefore possess sufficient skill, knowledge and experience to carry out the role(s). With regard to scope, MiFID II, UCITS and AIFMD provide some insight into rules covering outsourced activities. General definitions of the scope of fit & proper requirements are contained in Solvency II and CRD IV/CRR. Once the scope has been defined the specific requirements that must be fulfilled in order for a particular person to be regarded as fit and proper to bear the responsibility of his or her tasks in a PPP provider's value chain have to be determined. These requirements depend on the individual tasks that the position holder must carry out. IDD for example provides some requirements for distribution posts (sufficient training and education among others). UCITS describes prerequisites for eligible tied agents, market operators and data providers, where Solvency II and CRD IV/ CRR set out the requirements on an abstract level. Good reputation and integrity, as well as being able to demonstrate that the person can act in the best interest of the clients are basic features every candidate should exhibit (see e.g. AIFMD). CRD IV/ CRR require that the holder of a position that is within scope of the fit and proper requirements must devote sufficient time to perform their duties and accordingly sets limit e.g. on the number of contemporaneously-held directorships.

2.1 Setting appropriate provider governance standards for personal pensions

Consistently with EIOPA's views in the CP on PEPP, EIOPA believes that providers should maintain a sound risk management function and actuarial function, if biometric risks are covered by the contracts issued. Furthermore, they should have an effective internal control system and regular assessment of compliance should form part of this effective internal control system. The framework for internal control should include at least administrative and accounting procedures and reporting and compliance arrangements, outsourcing arrangements and appropriate controls for outsourcing. Furthermore, the set-up should contain a whistle-blowing requirement for the compliance function to inform the supervisory authority in those cases where the administrative, management board of the provider does not take appropriate and timely remedial action. The whistle-blower should be legally protected.

EIOPA believes that the principles governing remuneration policy should be designed such that a remuneration policy must be consistent with, and promote, sound and effective risk management (concurrent wording in CRD IV, UCITS and AIFMD). In order to avoid conflicts of interest, a guiding principle should be that the remuneration according to an eligible policy ensures that the remunerated person always acts in the best interest of the consumer. Additionally, there could be an obligation introduced to publicly disclose either the remuneration policy, or – probably more effective in terms of transparency and consumer protection – the actual remuneration structure.

2.1 Setting appropriate provider governance standards for personal pensions

EIOPA believes that the risk self-assessment carried out by a provider should not only comprise the review of the risks specific to the business of offering PPP product(s), such as liquidity, market, credit, possibly insurance, biometric and longevity risks and – connected to that – the solvency position of the PPP provider. All types of risks that could affect the provider should be challenged: operational risks, risks arising from likely changes in the legal, economic and social framework of the relevant markets and many more.

The risk self-assessment should be conducted regularly, presumably on an annual basis, and brought to the attention of the supervisor. The assumptions made should be clear and the range and granularity of risks considered should be proportionate to the nature, volume and complexity of the PPP products offered.

EIOPA suggests to follow the sector-specific requirements on the use of depositories to best reflect the provider's characteristics and business model, as those requirements are not necessarily specific to PPPs.

As the emphasis outsourcing receives in the legal acts obviously heavily depends on the type of PPP provider, EIOPA recommends that relying on the applicable European regulation governing outsourcing applicable to the specific PPP provider would be a simple and effective solution.

2.1 Setting appropriate provider governance standards for personal pensions

In EIOPA's view, PPP providers must have in place an effective risk-management system comprising strategies, processes and reporting procedures necessary to identify, measure, monitor, manage and report, on a continuous basis the risks and their interdependencies, at an individual and at an aggregated level, to which they are or could be exposed. That risk-management system must be effective and well integrated into the organisational structure and in the decision-making processes of the PPP provider with proper consideration of the persons who effectively run the entity or have other key functions.

Consistently with EIOPA's views in the CP on PEPP, EIOPA believes that providers should have an effective internal control system and regular assessment of compliance should form part of this effective internal control system. The internal audit function would need to include an evaluation of the adequacy and effectiveness of the internal control system and other elements of the system of governance of providers, including the outsourced critical or important functions or activities.

EIOPA considers it essential that sufficient supervisory powers exist for every PPP to ensure the interests of PPP beneficiaries are effectively protected, irrespective of the legal form of the PPP provider. In general, EIOPA considers the responsibilities and powers of supervisors as set out in sectoral regulation as a strong basis for this, but care may be needed to ensure clear allocations of responsibilities in cross-border situations.

2.2 Information to PPP holders

EIOPA recommends that, based on EIOPA's previous findings, effective information provision has to be framed in terms of clear behavioural purposes, seek to answer key questions, it should as far as possible be personally engaging, and should restrict the number of topics covered (short and simple), while using reference points and style/ language that can work for the intended audience. As such, whilst information provision will not directly mitigate bounded rationality problems, it may prove helpful with ongoing consumer engagement. Additionally, there is evidence suggesting that interactive automated tools can have a positive impact on consumers' actual decision-making. In this respect, lessons learned from behavioural economics should be considered when designing such tools.

Consumers should not become detached from the retirement savings process. Therefore, EIOPA recommends that prospective and current pension savers should receive effective information from providers. For this reason, a "layering approach" seems important: in a first layer of information consumers should be able to find answers to their 'key' questions. In subsequent layers of information consumers should be able to retrieve answers to further questions. The content can be more complex for engaged consumers. Additionally, legal information should be retrievable and be written in comprehensible language.

2.2 Information to PPP holders

It is important to acknowledge that layering of information should be permitted, including the addition of links in the PPP disclosure to where more detailed information can be found. A provider should make certain that the member disposes of the necessary and immediate comparable information in order to be able to choose based on his own profile from the available choices regarding the characteristics of the available PPPs (risk and reward characteristics, structure of the product, implied costs). However, the basic PPP disclosure and its focus on key 'Q&As' should not be undermined by layering, for instance by removing or downplaying important information. The PPP disclosure should in all cases offer a fair, clear and not misleading representation of the PPP, which is balanced and objective.

2.2 Information to PPP holders

A common basic structure for PPP pre-contractual disclosures - as a starting point, EIOPA would propose the following basic structure for developing PPP disclosures, building on the PRIIPs KID, though this might need adapting as necessary for different PPPs and their features:

- **Details** of the regulator/supervisor, the identity of the PPP provider, and how to contact these;
- **What is this PPP?** This could also include information on how the PPP works – investment objectives and the strategy for achieving them, including on how the de-risking, if applicable, works and any limitations e.g. on assets that are invested in. The information should address whether the consumer needs to choose between investments. (In the latter case, the information could be split between a general document about the PPP in general, and more specific information about each investment option, including details of its risks, rewards and costs.) Where the PPP offers biometric risk cover it should be explained in this section.
- **What are the risks and what could I get in return?** Depending on whether there is a choice offered this would show the risks and returns, in a balanced way to show the risks plainly and clearly, but also communicate how accepting short term volatility might be appropriate for getting better long term outcomes. For PPPs the concept of risk has to be considered with respect to different time horizons, consistently with the distance to retirement of individuals and to the life-cycle approach to investment. Avoiding short term risk can mean facing other risks (e.g. linked to inflation) over the longer term; risks anyway need to be taken to get returns. The section should include projections to retirement under different scenarios, and information on the possible income in retirement. It should also address whether the PPP includes a guarantee, and, if any, the limitations or features of this guarantee. In this context, a risk indicator similar to that with the PRIIPs KID could be designed to indicate risk in the short term, while performance scenarios could be more useful for communicating risk in the long term. However, consumer testing might be used to consider how these instruments need to be adjusted to ensure the clear communication of a balanced message on risks and rewards overall, in view of the long holding periods that have to be considered for PPPs.

2.2 Information to PPP holders

- **What if the PPP provider is not able to pay out?** Information on whether the PPP provider is a participant in a guarantee scheme in case of default should be included. This can be very important where different PPP providers are differently covered.
- **What are the costs?** This should include all costs – in a manner that is consistent with the approach used for the PRIIPs KID – covering both PPP costs and those at the level of the underlying investments ('look through'). It should include both monetary and % figures, and include 'cumulative' figures to the retirement date used for the projection information.
- **Can I access my funds early and what would it cost?** Can I switch my investments to another PPP provider and what would it cost? This information should be included as relevant. The costs associated with ordinary switching (between different investment options but staying with the same provider) should be included in the cost section. Any limitations on early redemption, for instance in view of investment in less liquid assets, should be clearly disclosed here.
- **What happens if I die?** This section should address this particular situation.
- **What happens if I stop paying?** This could include information on whether you can get your money / transfer your money to another PPP provider during the life of the contract. It should not simply duplicate information related to switching.
- **What choices will I need to make in the future?** Different PPPs can offer different possibilities, depending on national laws, as to the future steps the consumer might need to take – this could include, for instance, a choice over whether to take a lump sum on retirement, or on the type of annuity to be taken. It could also, during the life of the PPP, be necessary to assess the performance of the PPP and its continued appropriateness. These should be stressed in the PPP disclosure.
- **How can I complain?** This should include information on complaints handling.
- **Other information.**

2.2 Information to PPP holders

In EIOPA's view, the cost disclosures in the PRIIPs KID should be considered for use as a basis for PPP disclosures, following a similar calculation methodology and presentational approach. There may need to be some supplementation of detailed measures to show how specific costs related to PPPs are to be calculated or estimated. For PPPs, however, a large part of the costs will typically be the costs relating to the management of the underlying investments, where these underlying investments may be in practice PRIIPs whose investment management costs will be disclosed in their respective KID.

EIOPA is of the view that the type of information that is relevant for the pre-contractual phase need to be followed-through in the annual statement which consumers shall receive. Hereby, particular attention should be given to information concerning:

- Risks and return
- Costs
- Choices: Access to funds and switching, cancellation of contributions
- Decumulation

2.2 Information to PPP holders

EIOPA believes that critical decision making points and reaching the decumulation phase need to be prepared properly by providing tailored information at national level (due to regulation on decumulation being specific to Member States) in advance of these events.

In EIOPA's view such standardisation of the information provided to consumers would be essential (though not sufficient in itself) to the success of a PEPP. This is because consistency in information would be crucial in the cross-border situation, aiding both consumers in using and comparing PEPPs across different providers, including those working cross-border, while it would be also crucial in allowing for smooth cooperation between host and home supervisors. Experience in other markets – including that for UCITS – has shown that divergent disclosure and marketing requirements need to be tackled through standardisation if the full benefits of the Single Market are to be realised.

2.3 Distribution of PPP

Two specific aspects are worth highlighting:

- The first is the long term nature of PPPs and the necessity, therefore, in EIOPA's view, for a long term focus in the provision of distribution services, including advice. This relates, amongst other things, to the support consumers will need at future trigger points - for the correct ongoing monitoring of their PPP arrangements, and the need to plan ahead when approaching retirement.
- The second is the role of non-advised distribution. While EIOPA recognises this will not be a channel that is suited to all consumers and their needs, and that advice has a crucial role to play for some consumers with more complex needs, EIOPA considers that non-advised distribution has a key role to play, particularly in the context of a highly-standardised PEPP and its proposed 'default' option, which will have an inherent high level of built-in consumer protection. EIOPA supports the consumer protection approach which varies consumer protections in view of the complexity of the product and the extent of detriment possible for the consumer. As noted, EIOPA believes it will be crucial for the PEPP that non-advised online sales of the default option are possible in a cost-effective manner.

2.3 Distribution of PPP

EIOPA believes that the standardisation of a PEPP allows for additional possibilities, particularly in the context of online distribution and non-advised sales.

Online distribution could indeed help to alleviate the information asymmetry between PEPP providers and PEPP holders. Consumers may derive benefits from online distribution, particularly in the area of cost savings. Further benefits may be realised especially when disclosure requirements and product comparability are - due to standardisation - able to facilitate effective comparisons between different PEPP offerings. In view of these factors, EIOPA believes it would be beneficial, also in view of aiding the development of the single market, to facilitate non-advised online distribution of the PEPP, by ensuring that the default investment option of the PEPP is always designated - by virtue of its strong regulation - as 'non-complex' so as to avoid the application of appropriateness requirements, as required for complex instruments under MiFID and complex IBIPs under IDD. 'Demands and needs' requirements foreseen in the IDD for all insurance distribution shall need to be calibrated carefully in the context of online sales of insurance-based PEPPs.

That said, one should be mindful that the digital PEPP market of the future may introduce some new specific consumer detriment or increase, due to the nature of the internet, the scale of difficulties that exist already in offline distribution. It will be important for policymakers and distributors alike to be alert to the potential for such developments and work proactively to manage them in the best interests of consumers.

2.3 Distribution of PPP

EIOPA would like to highlight the following specific points that in its view are of particular relevance, in the context of the requirements set out in the IDD, MiFID and DMD[19] for insurance based investment products and financial instruments that are similar to PPPs:

- The nature and scope of any advice should be made very clear, including any limitations on the range of the advice. In non-advised sales, the consumer should be very carefully informed of this fact, and any impression of advice avoided. The risk taken on by the consumer in such a case should be made clear.
- Access to advice is likely to be important for many consumers, even though EIOPA does not consider a mandatory advice regime to be appropriate.
- Cooling off periods should be available.

- When assessing the suitability of a PPP, advisors should take into account the long term nature of a PPP commitment, and the consumers' expectations in the context of retirement, including the options that may be available at retirement. Other pension arrangements that the consumer has should also be considered.

2.3 Distribution of PPP

To properly provide ongoing advice services and be proactive in doing so, EIOPA believes that the distributor will need to monitor and review the product in the context of the saver's needs and future plans. For known trigger events such as when the saver is nearing retirement the provider or distributor as appropriate will need to prompt the saver about the upcoming event and ensure that the consumer has all the required relevant information to deal with these trigger events and that such information has been provided in a clear and understandable form. Contact details should be provided to allow the saver to seek further information, ask questions or seek advice if appropriate.

3. Single Market for personal pensions – opportunity for greater efficiency gains

To achieve a consumer-centric approach, EIOPA proposes that providers must:

- Identify a target market
- Consider the needs of the target market
- Design products that offer solutions for these needs
- Carry out stress testing of the product, e.g. using realistic 'worst' (and 'best') case scenarios to ensure a clear understanding
- Select appropriate distribution channels, and ensure these channels understand the nature of the product on offer and the target market for which it may be suitable
- Manage potential risks for the target market on an ongoing basis
- Monitor that the product is being sold to the right consumers in the right target market
- Account for changing consumer behaviour over time

3. Single Market for personal pensions – opportunity for greater efficiency gains

Product standardisation is not just about generating efficiency gains, it also helps overcome information asymmetry. The economic rationale for product standardisation typically stems from the need to reduce both transaction costs and information asymmetries. Whilst lower transaction costs result in decreasing production and distribution costs, they also reduce search costs (e.g. time and effort) for consumers by sending transparent signals on the product quality. In addition, product standardisation can facilitate economies of scale and cost efficiencies, two elements necessary to foster competition and innovation. In the context of personal pensions, product standardisation presents five benefits:

(1) By simplifying the characteristics of PPPs, product standardisation seeks to overcome information asymmetries as well as help consumers overcome cognitive and behavioural biases which often lead them to sub-optimal (retirement saving) outcomes;

(2) By reducing the diversity and number of product characteristics e.g. choice of investment options, product standardisation can lead to economies of scale and hence lower costs. Furthermore, simplifying and reducing the number of product characteristics through standardisation can help PPP market players better focus on their target market through a better alignment of consumers' needs. This, in turn, helps facilitate market take-up for PPPs;

(3) Product standardisation facilitates information standardisation which in turn assists consumers with valuable and transparent information to evaluate and compare product characteristics of PPPs.

3. Single Market for personal pensions – opportunity for greater efficiency gains

(4) Product standardisation represents an important instrument to facilitate the diffusion of product innovation. Whilst the development of new PPPs is a necessary condition for promoting innovation, it is not sufficient, on its own, the diffusion of innovation, such as newly created PPPs, is a pre-requisite to any future positive impact on the economy. By reducing information asymmetries and enabling greater product comparability, product standardisation can increase the probability for consumers to purchase PPPs, especially if standardisation led to lower costs for consumers through economies of scale. Achieving critical mass consecutively increases the likelihood for new innovations.

(5) In the context of the EU Single Market, setting common PPP characteristics and minimum quality standards that consider both the needs and behavioural biases of EU consumers would ease market access barriers. This is because product standardisation at EU level would facilitate more stable and predictable behaviour between market players seeking to offer PEPP by lowering information costs. Furthermore, reducing the variety of PPP characteristics through a simplified PEPP would contribute to increasing cross-border and intra-sectoral transactions within the Single Market.

3. Single Market for personal pensions – opportunity for greater efficiency gains

EIOPA does not favour periodical cost-free switching periods per se. Introducing a minimum investment period in PPPs or the PEPP could make the PEPP less attractive to consumers compared with the products currently available at national markets. However, in order to avoid an uneven alignment of short-term liabilities and long-term investments that create costly liquidity risk and may eventually even impact financial stability, some limitations on switching, such as minimum holding periods, should be possible.Setting dates or timing of periodical free transfers could determine consumer behaviour, potentially against their own interests. It could delay their switch to the next cost-free period or give the impression consumers need to switch during a specific period, as they cannot do it with the same costs in the upcoming years.

Costs for switching need to be fair - the implementation of a right for consumers to switch between PPP providers goes hand in hand with a cost increase for the PPP providers. In order to mitigate the risk that costs are being hidden or mutualized between all PPP holders of one provider, eventually reducing investment returns for those who are not switching, EIOPA is of the view that transparent, clearly allocated costs of switching are preferable to mandated free-of-charge switching. The applicable charges should be fair and reflect the true costs borne. Punitive charges would be prevented by full transparency, as endorsed by market pressure. However, national supervisory authorities should be attentive to actual market practices and monitor if the actual switching costs are reasonable and reflect the administration and transaction costs actually borne.

3. Single Market for personal pensions – opportunity for greater efficiency gains

EIOPA agrees that a cap on costs and charges should be the measure of last resort in an imperfect market like personal pensions. Clearly, in terms of fostering healthy competition and using market pressure through disclosure, caps on costs and charges are not the first-best option. However, considering consumers' cognitive biases, as explained in the information section, and shortcomings in full standardisation of these complex products, it may require setting caps on cost and charges - at least for the default investment option - in the interest of the consumer. Setting the right level of the cap may need to be left to the Member States' discretion to tailor it to local cost structures. In addition, the need for additional supervisory powers tailored to PEPP may need further considerations in the future which could involve:

- Developing a common EU standard defined level of a Total Expense Ratio (TER), expenses in relation to services provided, applicable to PEPP
- Requiring providers to disclose the target charge/TER for each of PEPP's investment options and if exceeded, systematically inform and explain to both PEPP holders and national supervisory authorities the reasons and remedial actions.

EIOPA remains of the view that the benefits of standardisation, including optimising returns and cutting costs through economies of scale can largely be achieved in the accumulation phase. EIOPA would require further analysis on the advantages and disadvantages of various decumulation options (or a combination thereof), ie lump sums, programmed withdrawals, life-time (inflation-indexed) annuities, as well as, ongoing-life styled savings.

3. Single Market for personal pensions – opportunity for greater efficiency gains

EIOPA believes that the essential features of the PEPP should include a default investment option and, if provided, a limited number of alternative investment options that adhere to the following guiding principles:

- Simplicity: The default investment option consists of investment vehicles that seek to meet a range of needs suitable for a large proportion of consumers within the Single Market. PEPPs can also include a limited set of alternative investment options to the default investment option where decision-making is made as simple as possible for consumers. Alternative investment options available to consumers should be limited and set in such a way that it prevents consumer choice overload and confusion. The alternative investment options should offer a range of funds from several broad investment strategies that work and are suitable for most consumers within the Single Market. Self-investment whereby financial sophisticated consumers build their own portfolio is prohibited and cannot be offered in PEPPs as an investment option. Including a bespoke self-investment option in PEPPs would make product standardisation redundant whilst hindering PEPPs' goal to provide a simple and trustworthy product. Providers must offer PEPP following the principle of guided choice architecture and clear labelling of investment options where the default in PEPP represents one investment option located within a set of limited straightforward alternatives that does not overwhelm consumers.

3. Single Market for personal pensions – opportunity for greater efficiency gains

- Duty of Care: Providers must adhere to the Prudent Person Principle and act solely in the best interest of consumers with respect to investment matters. Because one of PEPP's objectives is to help consumers secure a source of retirement income, all investment options available in PEPPs must protect consumers from inappropriate risk exposure through adequate and systematic re-balancing of asset allocation as they approach retirement or other appropriate means. The mechanisms used to secure a source of retirement income for PEPP holders should also account for relevant forms of decumulation, if available. Providers must assess the appropriateness of PEPPs for potential customers nearing retirement to ensure its suitability. Providers must regularly assess the ongoing suitability of the default investment option for PEPP holders in the default option against the objective of PEPPs (see below Value-for-Money). Similarly, providers must regularly review the ongoing suitability of the charge level for consumers. In the event that the default investment option becomes unsuitable (e.g. following a regulatory change), providers must act promptly in the sole and best interest of consumers in the default option to adjust the investment strategy of the default option. Any change in the default investment option must be supported by timely, transparent and easily understood communications to consumers in the default option.

3. Single Market for personal pensions – opportunity for greater efficiency gains

- Value for Money: All investment options in PEPPs including the default option need to provide good quality and value for money to PEPP holders which includes the objective to maximise returns at defined risk levels for that investment option so that it pays to save in a PEPP. Providers are required to disclose standardised charges information in a consistent way annually to consumers.
- Fairness: Costs for switching provider and transfer of funds are to be fair and transparent and should consist of a relatively minor fee to reflecting the true costs borne for administering the switching process. Therefore, there should be no implicit or explicit commercial barriers forcing consumers to stay with the same provider at any point in time.
- Adaptability: PEPPs should be capable of incorporating flexible features to enable providers adapt PEPPs to a diverse EU personal pension landscape so that: (1) PEPPs cater for satisfying potential demand to cover against certain risks such as biometric risk and the provision of a minimum return guarantee, both of which should be supported by robust solvency requirements and (2) consumers can choose a retirement age as well as appropriate forms of decumulation, if available in the relevant EU jurisdiction.

4. Requirements of a prudential regime

EIOPA is of the view that, when imposing capital requirements, the focus should lay on the product and not on the provider. Especially since the consumer will expect an equal level of protection against adverse developments irrespective of the provider. More research has to be undertaken to understand if and where existing solvency requirements have to be touched to achieve the goals of improving PPPs and to develop a relevant framework for PEPP. It does not seem feasible or proportionate to design one solvency regime that fits all possible PEPP providers and characteristics of possible PEPPs.

A prudent person principle, and in particular, the need for proper diversification and effective risk management can be seen as a critical feature to secure optimal outcomes for consumers based on sound management of their investments and proper monitoring of the sustainability of guarantees offered to consumers. Those principles are for example all well reflected in Articles 132 to 135 of Directive 2009/135/EC.

In addition to that, EIOPA believes that any provider should be required to establish an investment policy for its PPPs and to describe it in a written statement. The income

4. Requirements of a prudential regime

At European level, it is reasonable to only address those providers that are authorised according to European legislation, also in view of the sufficiency of these for cross-border activities.

EIOPA is of the view that current authorisation regimes should be used and that the provision of PEPP should be limited to those providers authorised under a relevant European Directive. Consequently, the authorisation received may limit the range of PEPPs that can be offered according the authorisation.

A product passport is based on the fact that a PEPP provider would be a financial institutions authorised and supervised - in relation to the PPP business - by its home Member State and such authorisation and supervision ensures a high level of consumer protection and the necessary prudential requirements as well as requirements on conduct of business.

As PEPP is intended as a standardised product, for the notification procedure it should be satisfactory to enable cross-border marketing upon a product notification. Such a notification should be (in the line with UCITS and AIFMD) feasible upon a certification that the provider simultaneously complies with the EU harmonised regime applicable to its activity (e.g. UCITS management company) and a certification that PEPP complies with the EU rules.

As PEPP holders bear investment risk, EIOPA believes that it is therefore essential to put in place a suitable supervisory framework which empowers national authorities to check on the mandatory elements of the PEPP including:

- The PEPP's investment options, for instance, their performance, compliance with Prudent Person Principle, the execution of the investment policy;
- The default investment option including monitoring its ongoing suitability to generate good outcomes and Value for Money for PEPP holders.

5. Conclusions

EIOPA came to several conclusions on requirements for providers and product features that would improve the efficiency of the current PPP market in light of the current circumstances and nature of the PPP market. EIOPA believes the legal framework that needs to be developed should be capable of most effectively and efficiently implementing those policies.

EIOPA considered several policy options, acknowledging their individual and aggregate merits, weighted them and assessed them in terms of application in the current market situation:

- Product features - investment options: EIOPA assessed whether to regulate the number and the nature of investment options. The analysis showed that unlimited and/or unregulated investment options without a default "core" investment options increasing the complexity of the products would lead to suboptimal results for consumers and efficiency losses for providers.
- Product features - biometric and financial guarantees: EIOPA considered whether guarantees are an indispensable or disadvantageous feature of PPPs, and consequently whether to require or to ban them for PPPs. Considering the current PPP landscape and the market situation, EIOPA concluded that the provision of guarantees should be allowed, yet not be required, to cater for satisfying potential demand to cover against certain risks.

5. Conclusions

- Product features - switching of providers and investment options: EIOPA assessed the regulation of transfers of funds and the possibility of switching providers of PPPs. Initially EIOPA contemplated free-of-charge switching provisions at specified points in time (for example every five to ten years into the contract). Other options would have been to prevent switching to emphasise the long-term nature of those contracts. Eventually EIOPA came to the conclusion to regulate switching and transfer of funds, which should naturally be possible during the life of the contract, in a principle-based manner.
- Product features - cap on cost and charges: Charges have a major influence on the outcomes of PPPs, therefore EIOPA considered whether there is the need to regulate costs and charges or to leave them up to the determination by market forces. The current circumstances for PPPs in Europe, and specifically in some Member States, would call for setting an appropriate cap on costs and charges for PPPs. However, the difficulties of appropriately regulating such a cap at European level, led EIOPA to conclude not to require a cap at European level, but to regulate it in principle.
- Product features - decumulation: Requirements relating to retirement age and decumulation options are highly diverse in the EU. EIOPA assessed possible benefits of regulating both areas at European level. Given the current diversity and the individual conditions in the Member States, EIOPA reckoned that the benefits of standardising those features would not outweigh the difficulties of properly regulating them and to achieve optimal outcomes for every Member State.

5. Conclusions

- Information provision: EIOPA assessed the need to regulate information provision relating to PPPs to consumers. The options were not to regulate them specifically, to regulate them in high-level, principle-based terms or to regulate them through standardisation and rules. EIOPA weighted the importance of relevant information provision in terms of consumer protection and leading to efficiency gains for providers and eventually viewed standardisation as the most favourable option - however, acknowleding the specificities of PPPs in comparison to PEPP.
- Conduct of business: PPPs are not necessarily simple products and can affect individuals' lives greatly, which in turn may have consequences on regulating distributor's conduct of business. EIOPA contemplated the need to regulate the provision of advice and conflict of interest mitigating measures specifically for PPPs or to leave it up to sectoral rules. EIOPA appreciated the value of level playing field considerations and consistent features to safeguard consumers' interests - and concluded that it may be most efficient and effective to use the relevant sectoral rules of MiFID and IDD as a starting point for all PPPs.

5. Conclusions

EIOPA concluded that, whilst both approaches are possible, the analysis showed that particularly in terms of reaping efficiency gains for consumers, providers and competent authorities alike, a standardised PEPP regulated by a second regime would promise superior outcomes than harmonised regimes. Considering the current PPP market, the introduction of a PEPP via a second regime is expected to lead to minimum implementation efforts and maximum effectiveness, compared to probably considerable lead times to amend all relevant Directives and develop implementing measures to arrive at a similarly standardised PEPP. In addition, the risk of creating regulatory arbitrage would be sizeable in light of holistically different prudential approaches that potentially cannot be fully harmonised in terms of one contract class.

In order to achieve a true Single Market for pensions and to overcome barriers to use the efficiency gains of the Single Market and ensuring a high level of consumer protection, it is therefore EIOPA's view that only a second regime PEPP will be capable of realistically tackling the currently under-developed EU market for cross-border pensions.

AAE Responses to 2015 Consultation

EIOPA's draft advice on the development of an EU Single Market for personal pension products primarily assesses opportunities to improve the current personal pensions market through a Pan-European Personal Pensions Product (PEPP), as publically consulted in July 2015.

In the recent consultation paper on PEPP, EIOPA set out essential characteristics, which should be standardised and mandatory in the PEPP:

- High level investment principles;
- A default investment option featuring either a guarantee or lifecycling strategy with de-risking;
- Limiting the number of alternative investment options (if provided);
- Periodic free-of-charge provider switch.

Quotes from AAE response to 2015 consultation

- It would be an advantage for the consumer to know that any PEPP they are considering meets basic requirements that are all meant to assure that the product is in their interest - The consultation refers to a pension product. Nevertheless it primarily seems to focus on the saving/accumulation phase and very little on the actual pension/decumulation phase - Our approach would be to **start with the retirement income** and try to create a saving/accumulation pattern leading to anticipated income in retirement
- We would expect that the possibility for providers to bring their product to the market in more Member States contributes to establishing a level-playing-field for providers and will thus enhance competition which we expect to be advantageous for consumers. This would add to **consumer protection** and to the trust that consumers should rightly have in any PEPP offering

Quotes from AAE response to 2015 consultation

- Consumer protection in our view is not necessarily the same as certainty on a financial outcome. Consumer protection for us is much more about **providing good insights and background** to the products and clarity about what, and in which circumstances, the consumer can expect from a product
- On several places in the consultation a reference is made to a money back guarantee. Although this may sound attractive to policyholders, it should be made very clear that **a zero return would almost certainly result in a significant loss of purchasing power**
- **lifestyle strategy depends on the decumulation option** chosen (or permitted in a Member State) and cannot be standardized in isolation

Quotes from AAE response to 2015 consultation

- Good governance - Having **professionally qualified experts, like actuaries**, in providers can be an important contribution to consumer protection
- surprised to see no mention of "**vulnerable customers**"
- PEPP will be a standardised (and hence simple) product - hence the proposal to have **few funds**, and nothing too complex.
- We think that for product providers the **existing authorisation rules are sufficient**. For a new (PEPP) product a stand-alone regime for product features might make sense
- In most countries you can have very different products as such. But then countries have their own **national tax codes** that define what are the tax efficient products. We feel that tax reasons will be one of the main problems of any PEPP product as of now

Quotes from AAE response to 2015 consultation

- Perhaps the standard should be based on **annuitisation** in retirement as standard for the decumulation phase
- Offering **5 investment options could be fine** if one of the 5 is a free investment choice option. In addition to 3 life cycle offerings we would like to see the possibility of an individual target arrangement (Managed DC)
- providers should have a duty to offer a range of **funds which are appropriate to the target customers for the PEPP**, and then a duty to oversee the performance of them, as well as the continuous appropriateness of the investment strategies selected
- There should be **equivalence of benefit security** for customers, irrespective of the type of entity that provides the product. Solvency II sets out a framework for insurers under which policyholder security is addressed by a sophisticated governance structure, in which actuaries and other risk professionals play an important role. EIOPA should be careful that they don't weaken customer protection by encouraging entities without ORSAs etc to provide long-term guaranteed products

Quotes from AAE response to 2015 consultation

- we also want to stress that **policyholders can't just have their cake and eat it**. Liquidity with no charge on **switching** is probably more important than picking up any illiquidity premium. Perhaps this is where communication about investment risk and consequences is very important. Also, moving from illiquid investments can be facilitated by giving the provider the right to defer switches for up to, say 6 months rather than by allowing immediate switches along with a charge.
- We support the proposition that the starting point for disclosure should be the **PRIIPs disclosure**. It is important the be clear about costs. **Premia for biometric or other risks are often perceived as costs by consumers, but they a**ren't