Actuarial Association of Europe

Update on Regulation for pan-European personal pension product (PEPP)

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Philip Shier

Progress

- On 29 June 2017, the Commission issued a draft Regulation
- The Council agreed a compromise under the Bulgarian Presidency in June 2018
- ECON approved its negotiating mandate on 3 September 2018 which was ratified by the European Parliament in plenary on 12 September 2018
- Provisional agreement between the co-legislators was reached on 13 December 2018 under the Austrian Presidency
- Following “technical finalisation”, the final compromise text was agreed by Coreper (Permanent Representatives Committee) on 13 February 2019
- Formal vote in European Parliament on 4 April 2019
- Regulation applies “12 months after the publication in the OJEU of the Delegated Acts”

AAE activity

- Established working group under Pensions and Insurance Committees in Copenhagen in Oct 2017
- Produced discussion paper in March 2018, which was sent to policymakers
- Engagement with ECON rapporteur, Sophia in't Veld
- Some discussion with Bulgarian Presidency in June 2018
- Conference call with EIOPA in December 2018

Key issues - Providers

- AAE comments
  - Range of providers gives scope for regulatory “arbitrage”
  - The products offered by different types of providers are intrinsically different and customers must be made aware of this
  - IORPs as providers – okay so long as this does not have a detrimental effect on IORP members/sponsor (or vice versa)
- Final Regulation allows for a broad range of financial providers, to foster competition, including:
  - Insurers
  - Banks
  - Investment firms
  - Asset managers
- IORPs are permitted to provide PEPPS only if they are authorised to provide personal pensions under national law and the PEPP assets/liabilities are ring-fenced

Key issues - Portability/National Compartments

- AAE Comments
  - Requirement to have 28 compartments very onerous
    - Suggest “partnering” or EIOPA standard documents
    - Concerns about tax arbitrage
- Final Regulation permits PEPP providers (incl IORPs and AIFMs) to distribute within any MS under FoE or FoS
- PEPP providers are required to offer at least 2 “national sub-accounts” 3 years after the Regulation enters into force
- PEPP savers have the right to continue contributing to their PEPP account (a different national sub-account or their current one) if they change residence to another MS
- May provide portability by establishing a partnership with/outsourcing to another PEPP provider
- If PEPP provider cannot offer a “national sub-account”, the saver must be permitted to switch free of charge to another provider

Key issues - Accumulation Phase; Investment Options

- AAE Comments
  - Options should be limited but why specify 5 in the Regulation?
  - We agree there should be a default but why specify this in the Regulation? Should be linked to decumulation option.
  - Capital protection
    - is not necessarily in the best interests of consumers
    - inflation protection?
    - may be offered for the first few years to encourage saving habit?
    - if offered, should only apply at maturity
  - Preference for lifecycle approach in most circumstances
- "Prudent person rule" applies (taking into account ESG factors)
- May offer up to 6 options which *"shall be designed on the basis of a guarantee or risk-mitigation technique which shall ensure sufficient protection for PEPP savers*"
- Must include a Basic PEPP which is the default
  - This must provide either
    - *"a guarantee of capital at the start of, and during, the decumulation phase", or*
    - *"a risk-mitigation technique consistent with the objective to allow the PEPP saver to recoup the capital"*
  - Maximum annual "*costs and fees*" [to be set out in RTS] must not exceed 1% of the accumulated capital [this can be varied every 2 years by Delegated Act]

Risk mitigation techniques (RMT)

- Article 46 sets out the objectives of the use of RMT
  - To ensure that the investment strategy "*is designed in order to build up a stable and adequate individual future retirement income…and to ensure fair treatment of all generations of PEPP savers*"
- Examples given:
  - life-cycling
  - smoothing
  - guarantees
- EIOPA, after consulting other ESAs and conducting industry testing, to develop RTS "*specifying the minimum criteria that the RMT have to satisfy*.."

Key issues - Change in Investment Strategy/Switching of PEPP Providers

- AAE Comments
  - Saver must be treated fairly but providers must be able to cover reasonable costs
  - Do not think it is desirable to specify a fixed cap on charges
  - Capital protection should not apply on switching provider
- Must permit saver to alter investment strategy after 5 years and every 5 years thereafter free of charge (provider may permit this more frequently)
- Must permit saver to switch PEPP provider after 5 years and every 5 years thereafter (provider may permit this more frequently)
- Maximum charge made by transferring provider is 0.5% of the amount transferred (MS may set a lower %).
- Any financial loss suffered by the saver on switching due to non-compliance by provider(s) shall be refunded to the saver
- Saver bears losses due to redemption of assets etc
- *"The transferring PEPP provider shall not be obliged to ensure capital protection or provide a guarantee at the moment of switching"*

Key issues - Decumulation

- AAE Comments
  - Member State flexibility appropriate
  - Consumer should have flexibility; perhaps some of the fund should be taken as income i.e. annuity or drawdown
  - Transition from accumulation to decumulation should be as smooth as possible
  - Why force consumer to decide many years in advance?
- Conditions determined by MS e.g. minimum age for decumulation
- MS may set limits and conditions for incentives
- Providers may offer annuity, cash or drawdown payments
- Saver decides form of decumulation at outset, but may change this (if provider gives options) one year before decumulation, at the point of decumulation or "*at the moment of switching*"
- PEPP provider *"shall offer personal retirement planning"* which *"shall include a personal recommendation to the saver on the optimal form of out-payments…"*

Key issues - Information Requirements

- AAE Comments
  - More detail needed on proposed KID
  - Have regard to long term nature of pension saving
  - Consistent with PBS under IORP II Directive
  - Projections should include a “favourable scenario” as well as a “best estimate” and “unfavourable scenario”
  - Suggest “panel of experts” to set assumptions for projections?
  - Suggest “central projection” or “central scenario” instead of “best estimate”
- PEPP KID – content set out in Article 28
- *“What are the risks and what could I get in return?”* includes *“appropriate performance scenarios and the assumptions on which they are based”*
- EIOPA will produce RTS to specify details on information to be provided
- PEPP Benefit Statement content set out in Article 36 – similar to PBS
- Still refer to “best estimate” and “unfavourable scenario” only.
- EIOPA will produce RTS to specify the rules to determine assumptions to be used in projections, and to specify details of the presentation of the information, including past performance figures.

Next steps

- Should AAE issue updated commentary on the key issues when the final Regulation is formally published?
- AAE has offered assistance to EIOPA in relation to
  - Risk mitigating techniques
  - Assumptions for projections in PEPPBS (which is based on IORP PBS)
- How do we deliver this?
- Should we try to influence other RTSs
- Consumer Protection aspects e.g. the PEPP KID (cf PRIIPs KID)

Thank you