

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

**Deadline
26 April 2016
23:59 CET**

Name of Company:		
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Confidential/Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, in Word Format, to CP16-001@eiopa.europa.eu. Our IT tool does not allow processing of any other formats.</p> <p>The numbering of the paragraphs refers to Consultation Paper on the proposal for implementing technical standards on special purpose vehicles.</p>		
Reference	Comment	
General Comment	<p>This document summarises the opinions of Assofondipensione, Assoprevidenza and Mefop on the consultation paper on EIOPA advice on the development of an EU Single Market for Personal Pension Products (PPP).</p> <p>Assofondipensione embody the interests of 32 workplace Italian Pension Funds. Their members represent 1.9 million employees and AUM equal to 40 billion Euros. It is member of AEIP (European Association of Paritarian Institutions)</p> <p>Assoprevidenza embody the interests of more than 170 workplace Italian Pension Funds. Their members represent AUM exceeding 13 billion Euros. It is member of AEIP (European Association</p>	

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of Paritarian Institutions).

Mefop is jointly owned by the Italian Ministry of Economics and Finance, which is the main shareholder, and by 90 Italian Pension Funds (both occupational and personal). It is member of AEIP (European Association of Paritarian Institutions) and of PensionsEurope.

Assofondipensione, Assoprevidenza and Mefop are in favour of all the initiatives that can encourage the participation of the employees to the supplementary pension schemes, so that they can achieve a pension treatment adequate to their needs and expectations at retirement. This goal is particularly important taking into account the growing need to strengthen the public pensions, whose level of coverage is expected to fall in the coming years as a result of the overhauls of the pension systems adopted in many member states of the European Union.

We also share the efforts of EIOPA to promote a simple, transparent and comparable personal pension product in order to develop an informed membership and prevent potential members (consumers) from the negative effects of asymmetric information on the market of personal pensions.

Nevertheless, we are very concerned about the EIOPA conclusions of the consultation paper in favour of the creation of a new Pan-European personal pension product as the better way to achieve the EU Single Market for Personal Pension Products.

From the consultation documents it seems clear that EIOPA promotes PEPP as a financial product in the framework of a 2nd regime that overrules national regulations and answers more to a "commercial" logic than a pension one. What is favoured is simplicity and standardisation, and the attention dedicated to protection and safety is in the line of "protection of consumers" (in fact the document speaks about "*consumers*" and not "*members*").

As we suggested in the response to the consultation paper on the creation of a standardized Pan-European personal Pension Product, the introduction of a new personal pension scheme cannot be viewed without an in-depth assessment of its effects on the single national markets. The hypothesis of the 2nd regime could certainly better fit in countries where the national market of personal pension product are not developed yet. Conversely in countries where the PPPs are

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already well developed and regulated, the new scheme risks to achieve worse off outcomes from those hoped by EIOPA. In the end there is the risk of damaging the interests of consumers instead of to protect them.

The framework proposed by EIOPA for the PEPP, which envisages an high level of standardization on information provision, default investment option and limited investment choice while leaving flexibility on guarantees, cap on costs and charges and switching risks to trigger regulatory arbitrage where PPP are strongly regulated. In Italy PPP share the same regulatory framework of IORP's. They already benefit of a very strong and efficient regulation which ensures members/consumers with a high duty of care. Moreover, in Italy (but also in other Member States) in some cases, based on specific agreements between an employer and his employees, personal pension products act as a IORP. In that cases PPP are a second pillar scheme, both for employees and, to a greater extent, for self-employed workers. With the project of PEPP further strengthen, there is the risk that the current structure of the market could be deeply modified in a way in which the level of care towards members could be sharply reduced. In fact, even though EIOPA is explicitly aware about risk of regulatory arbitrage, it doesn't seem to suggest any real practical solutions.

Still continue not to be very clear which financial intermediaries may provide a PEPP. Even if EIOPA has limited the field of possible providers to all financial intermediaries falling under a UE directive on financial intermediaries, it doesn't seem not yet appropriate. Mefop, Assofondipensione and Assoprevidenza still reiterate their concerns on this issue. First of all even providers far from the market of supplementary pensions provision and with a low skill on this field may be providers of PEPP. Furthermore, in the market there will be two different providers of personal pension products: those already existing, subjected to the authorization process of each Member State and to the national regulatory framework, and those offering the new PEPP on the basis of the EU framework and no more subjectet to a specific authorization. Once again, EIOPA risks to fail to secure the achievement it wants to reach with PEPP.

A new concern is linked to the proposal of EIOPA to allow for the provision of a PEPP without a specific authorization by the competent authority. The rationale of the proposal is that as the

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provider has been already authorized under a EU directive from its specific regulator, it is also valid for the provision of a PEPP. It is important to stress that the provision of a PEPP should be only admitted for financial intermediaries which fulfill the requirements established by the competent authorities and which have a mission comparable with the provision of a pension product. The proposal risks to create an "unlevelled playing field" between operators which refer to different regulatory frameworks. This condition, when occurring, will only worsen the interests of members/customers of both national PPP and PEPP, further increasing the risk of regulatory arbitrage. The hypothesis of no specific authorization should be only admitted for financial intermediaries falling within the scope of the EU Directives on financial services provision and which already provide personal pension plans or other forms of supplementary pensions. This hypothesis risks to be very dangerous in Italy where currently personal and occupational pension arrangements obey to the same regulator. If the EIOPA proposal should go further on, in the market of personal pensions there will be operators subjected to two different regulators.

EIOPA continues to support the idea that PEPP could be eligible for tax incentives at national level. We agree on the fact that tax distortions have to be tackled to avoid market asymmetries. However EIOPA should take into account the specific (and social) purpose of tax incentives to supplementary pension schemes. They are justified from the special purpose of retirement savings, both occupational and personal. Pension funds are merit goods, based on that assumption they are eligible for public support (i.e. tax incentives). No matter their nature, supplementary pension schemes are not a purely financial investment, they are pension investments, employees and self-employed join the plans to secure an adequate income for old age. Allowing financial vehicles with a low level of pension skill than national existing PPPs being eligible for tax incentives, could benefit products which should not be entitled to. Once again, such a distortion may be further worsened by the presence on the market of two different providers who deal with different and asymmetric regulatory environments. This risk is particularly relevant for Italy as PPP and IORP share the same tax treatment. The regulation of PEPP should allow national authorities to limit tax incentives only to providers of PEPP who:

- are provided by financial intermediaries with capital requirements, governance and

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organizational structure adequate and consistent to carry out the provision of PEPP,
- provide to their members a level of protection at least not lower than those provided by the already existing PPP operating in the Member State of reference.

The regulation of PEPP, based on the coexistence of flexible (national) and standardized (EU) rules could create a lots of organizational problems for PEPP providers, particularly for those committed in the cross-border activity. In addition, there could be negative consequences also for consumers because the levels of protection assured by PEPP would not be homogeneous but differentiated on the basis of the national contexts. In assessing the degree of standardization of the PEPP, EIOPA should consider the effects that would occur on the markets of PPP at national level as well as the consequences on the consumer care.

For all these concerns, we don't agree with the preference of EIOPA towards the so-called 2nd regime. The EU Authorities should even consider the other approach suggested in the Call for Advice of the European Commission released on July 2014, which is based on the establishment of a common regulatory framework as much uniform as possible for PPP (or at least the major ones) currently provided and on the release of a "passport" for the cross-border activity. We strongly believe that the strengthening of the multi-pillar approach to promote the growth of supplementary pension schemes, one of the goals of PEPP's, may be better achieved by improving the effectiveness of the schemes already in place (both occupational and personal), rather than enrich the supply-side of the market with a new type of pension product. With the provision of the PEPP there will be only the risk to raise confusion among potential members and, thus, in the end, negatively affect the rights of consumers which, instead, EIOPA would like to protect.

For all the other concerns please refer to the response of the consultation *Creation of a new Pan-European personal pension product*

Q1

Would PPPs benefit from harmonization of provider governance standards? What should be the basis for provider governance standards for PPPs? Do you agree with EIOPA's proposal?

As mentioned in general comments, harmonization/standardisation risks to be made "towards the bottom", so we agree with on the starting prepositions of EIOPA that governance standars

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are needed, but, Member States must have right to apply national additional rules especially when PPP are already developed and very well regulated. In no case harmonization should lead to a reduction of members protection in respect of actual situation

Moreover in order to achieve the success of PPP and that the issue should be further addressed as preliminary analysis carried out in the consultation document is not sufficient.

We think that in order to achieve the better outcome and to avoid regulatory arbitrage some common rules are needed, and the solution proposed by EIOPA to refer to the specific EU directive of the provider is unsatisfactory as it could trigger asymmetries between providers, decreasing the duty of care towards consumers (members).

Concerning governance requirements, we believe that the priority is to provide for an high level of PPP security, even if that means increase of costs for providers. The exchange cost /security is not efficient.

More in detail, referring to governance standards proposed, if we consider that as a general principles that should be implemented following national rules currently in place in every country for current PPP:

- existing rules to apply: we underline necessity to make reference more to pension rules than financial products ones;
- fit and proper principles: we agree;
- risk-management principles: we agree;
- internal control system: we agree;
- remuneration policy: we agree with Eiopa statements on page 20, even if we believe that the obligation to disclose remuneration policy and (not or) actual remuneration structure.
- depository: we are very concerned on this issue. In Italy the appointment of a depository is mandatory for PPPs not established by life insurances. If the proposition of EIOPA should be adopted it could cause an asymmetric regime that could lead the consumers to be worse off.

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	<ul style="list-style-type: none"> - <u>outsourcing</u>: we agree with oecd/iops good practices - <u>conflict of interest</u>: we agree; - <u>redress mechanism</u>: again we stress the need to make more reference to pension rules than financial products ones. We agree with the idea that <u>all</u> PPP's providers, irrespective of their sectoral nature, establish effective redress mechanism, complaint arrangements, and guarantees in the case of bankruptcy or fraud. 	
Q2	<p>Would PPPs benefit from harmonization of product governance rules? What should be the basis for product governance rules for PPPs? Do you agree with EIOPA's proposal?</p> <p>About harmonization/standardisation, see Question 1, first paragraph.</p> <p>We totally disagree with the idea that 2nd regime is sitting besides national regulation at least as far as the same tax treatment apply and/or PEPP could be considered part of "pension framework" of a Member State. In this case national social and labour law and national prudential law have the priority, if more strictly.</p> <p>We agree with POG requirements. Concerning product features, we:</p> <ul style="list-style-type: none"> - agree with EIOPA proposal about cap on costs (particularly about developing a common EU standard TER, to improve comparability), decumulation and switching; - as regard the provision of the default investment option, as in some national states some rules are already in place, we deem that PEPP framework should provide for a duty of care at least not worse off of those provided by national regulation. <p>As for the previous point, we are concerned on the view of EIOPA to refer to the specific EU directive of the providers as a starting point as it could trigger asymmetries between providers, decreasing the duty of care towards consumers (members).</p> <p>Moreover, we deem that for a product governance rules to sound good, the rules should be not worse off than those currently in place in every country for current PPP.</p>	

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Q3

Would PPPs benefit from harmonization of distribution rules? What should be the basis for distribution rules for PPPs? Do you agree with EIOPA's proposal?

About harmonization/standardisation, see Question 1, , first paragraph.

We agree and support the base idea to apply the MIFID appropriateness test also to membership of PEPPs. This is a proposition in line with the Italian legislation on membership of personal pension fund. When a potential member joins a personal pension fund he has to respond to MIFID questionnaire (IDD questionnaire in case of PPPs provided by an insurance company) to access the correspondence between the risk profile of the member and those of the plan. That rules apply no matter the degree of risk of the proposed investment option. The appropriateness questionnaire has to be carried out also in case of membership of a guaranteed line. The provision also apply for on-line subscriptions.

Based on that we fully disagree on the idea supported by EIOPA to classify the default investment option of PEPP as a non-complex investment product so to avoid the appropriateness questionnaire to apply. High level risky asset could be underlying also in the default option of the PEPP. MIFID an insurance regulation provide a safeguard for members of personal pension funds. The proposal of EIOPA risks to soar the risk for the member and to decrease the security of the plan. In the end EIOPA proposition risk to damage consumers instead of to improve their care.

We agree also with EIOPA assessment about advice and conflict of interest between sales staff and holders. We agree on the need to strenghten standards of professionalism and knowledge of distributors.

We deem that for a harmonization of distribution rules to sound good, the rules should not be worse off than those currently in place in every country for current PPP.

Q4

Would PPPs benefit from harmonization in disclosure rules? What should be the basis for distribution rules for PPPs? Do you agree with EIOPA's proposal?

About harmonization/standardisation, see Question 1, first paragraph.

Disclosure is a key issue for the PEPPs to be successful. As regard pre-contractual information, at

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	<p>first sight the rules on Key Information Document for PRIIPs could represent a good starting point as well a layering approach.</p> <p>However, also in this case we are concerned on what could happen in countries where the current framework on disclosure on personal pensions works well. In Italy, where there is a common level playing field between occupational and personal pension schemes, PPP have to provide potential members with the same informatins of IORP. Potential members are provided with a full set of information on the main aspects of the plan (sponsor, minimum contribution, feed and charges, asset management, annuitys, other providers, etc.). EIOPA should take into account that the proposed approach could ensure a lower level of information, at least in some countries.</p> <p>As regard the representation of the costs, we support the idea, based on PRIIPs regulation, of the summary indicator of the plan based on all implicit and explicit charges. However, we deem that the computation of this summary index should not be based on less restrictive rules than those of national legislations where similar summary index are already currently in plase.</p> <p>As regard regular information to members, we support the proposal of EIOPA to use as a starting point the Pension Benefit Statement set out by the EU Commission when starting the rewiev of IORP Directive in 2013.</p> <p>We also share the position of EIOPA to leave at national level to fix the degree of disclosure on critical decision making point and decumulation.</p>	
Q5	<p>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 ?</p> <p>We disagree with the idea not to add specific capital requirements for PPP's: as we said before, PPP's are pension product non financial, so adequate capital requirements should be helpful in order to protect members (not consumers) rights</p> <p>We also stress the concept that differences in prudential regimes should be seen in respect with the role of PPP within global pension national system. If, for exemple like in Italy, they are part of</p>	

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	second pillar, a special prudential regimes should be appropriate.	
Q6	<p>Are further supervisory powers –tailored to PEPP- necessary? Do you agree on EIOPA proposals?</p> <p>The supervision of the PEPP is a very sensitive issue. EIOPA proposal to allow for the provision of a PEPP without a specific authorization by the competent authority appear to to be too risky for members (not consumers). The rationale of the proposal is that as the provider has been already authorized under a EU directive from its specific regulator, that authorization should be also valid for the provision of a PEPP. It is important to stress that the provision of a PEPP should be only admitted for financial intermediaries which fulfill the requirements established by the competent authorities and which have a mission comparable with the provision of a pension product. The proposal risks to create an “unlevelled playing field” between operators which refer to different regulatory frameworks. This condition, when occurring, will only worse off the interests of members/customers of both PPP and PEPP, further soaring the risk of regulatory arbitrage. The hypothesis of no specific authorization should be only admitted for financial intermediaries falling within the scope of the EU Directives on financial services provision and which already provide personal pension plans or other forms of supplementary pensions.</p> <p>Another concern is linked to the fact that in the project of EIOPA each provider should be supervised by its competent authority. This provision could cause concerns for those countries where the supervision of pension funds is centered in single authority, no matter the nature of pension scheme: personal or collective. This could trigger possible regulatory arbitrage with pension fund which obey to different supervision frameworks.</p> <p>We wonder whether the stranghten of supervisory powers tailord to PEPPs may be sufficient to prevent the risk of regulatory arbitrage between different supervisory regimes.</p>	
Q7	<p>Do you agree with the Eiopa’assessment of the policy options’ impact ?</p> <p>We share the goal of EU insitutions to support the coverage of supplementary pensions. However it has to be made without trigger members (effective and potential) to be worse off. That expectation is particularly relevant in countries where the provision of PPPs is already well</p>	

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	<p>developed and regulated. We are afraid that the 2nd regime as though by Eiopa will, in the end, only represents a threaten for the welfare of members (effective and potential), at least in those countries.</p> <p>In light of the aforementioned concerns we support the idea to further in-depth assess the issue in order to provide a «one size fit all» PEPP regime really able to provide an adequate care for members/consumers (effective and potential), but in principle we are in favour of policy option 3 of provide only a set of principles leaving MS complete discretion.</p>	
Annex I : Impact Assessment		
Section 1. Procedural issues and consultation of interested parties		
Section 2. Problem definition		
Section 3. Objective pursued		
Section 4. Policy options	<p>We underline that EIOPA statements about impact on stakeholder of a 2nd regime seems to be a little bit contradictory.</p> <p>In fact EIOPA asserts that it is very difficult to harmonize PPP's national rules because they are very different and, as solutions it suggests to create a 2nd regime that overrules this rules, because a 2nd regime would not impose any costs for consumers or disadvantages in term of consumer protection. But EIOPA itself in the same paragraph « notes » that it could be a possiblity of risk confusion for consumers and costs to supervising two regimes as well as risk of regulatory arbitrage.</p> <p>Nevetheless, no answers are given about that and it seems that providers reasons,especially about costs are the driving ones</p>	
Section 5. Analysis of impacts		
Section 6: Comparison of options		

