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A8-0278/ 001-001

**AMENDMENTS 001-001**

by the Committee on Economic and Monetary Affairs

**Report**

**Sophia in 't Veld**

Pan-European Personal Pension Product (PEPP)

**A8-0278/2018**

Proposal for a regulation (COM(2017)0343 – C8-0219/2017 – 2017/0143(COD))

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**Amendment 1**

AMENDMENTS BY THE EUROPEAN PARLIAMENT\*

to the Commission proposal

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2017/0143 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a pan-European Personal Pension Product (PEPP)

(Text with EEA relevance)

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\* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol **■**.

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) EU households are amongst the highest savers in the world, but the bulk of these savings are held in bank accounts with short maturities. More investment into capital markets can help meet the challenges posed by population ageing and low interest rates.
- (1a) Old age pensions constitute an essential part of a retiree's income and for many people, adequate pension provision makes the difference between a comfortable old age and poverty; it is a precondition for exercising fundamental rights laid down in the Charter of Fundamental Rights of the European Union, including in Article 25 on the rights of the elderly which states: "The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life".*
- (1b) The Union is facing several challenges, including demographic challenges because of the fact that Europe is an ageing continent. In addition, career patterns, the labour market and the distribution of wealth are undergoing radical changes, not least as a result of the digital revolution. At the same time, it is increasingly clear that national security systems are not adjusted to a globalised knowledge economy with open borders, labour mobility and migration. Too many people are not, or are inadequately covered by the traditional national pension systems, including, inter*

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<sup>1</sup> OJ C , , p. .

*alia, women, young people, migrants, low-skilled workers, self-employed workers and workers with atypical contracts.*

- (1c) A substantial part of old age pensions is provided under public schemes, so that there is a direct connection between national pension systems and the sustainability of public finances. Notwithstanding the exclusive national competence regarding the organisation of pension systems as determined by the Treaties, income adequacy and financial sustainability of national pension systems are crucial to the stability of the Union as a whole. By channelling more of Europeans' savings from cash and bank deposits to longer-term investment products, such as voluntary pension schemes, the impact would therefore be beneficial both for individuals (who would benefit from higher returns and improved pension adequacy) and for the broader economy.*
- (1d) In 2015, 11,3 million Union citizens of working age (20 to 64 years old) were residing in a Member State other than the Member State of their citizenship and 1,3 million Union citizens were working in a Member State other than their Member State of residence.*
- (1e) A portable pan-European Personal Pension Product (PEPP) will increase its attractiveness as a product particularly to young people, and will help to further facilitate the right of Union citizens to live and work across the Union.*
- (2) Personal pensions are important in linking long-term savers with long-term investment opportunities. A larger, European market for personal pensions will support the supply of funds for institutional investors and investment into the real economy.
- (2b) This Regulation enables the creation of a pension product which, as far as possible, will be simple, safe, reasonably-priced, transparent, consumer-friendly and portable Union-wide and complements the existing systems in the Member States.*
- (3) Currently, the internal market for personal pensions *does not function smoothly. In some Member States there is not yet a market for pension products. In others, private pension products are available, but there is a high degree of fragmentation between national markets.* As a result, personal pension products have only a limited degree of portability. This can result in difficulties for individuals to make use of their

basic freedoms. For instance, they may be prevented from taking up a job or retiring in another Member State. In addition, the possibility for providers to use the freedom of establishment and the freedom to provide services is hampered by the lack of standardisation of existing personal pension products.

***(3a) The European pension market is highly fragmented and diverse, so the impact of PEPPs will be very different across Member States, and the target audience is equally varied. In Member States where the first and second pillar are insufficiently developed, PEPP might offer solutions for people who do not currently have access to adequate provisions. In Member States with highly developed pension markets, the PEPP could broaden the consumer choice, or offer solutions to mobile citizens. However, the PEPP should not aim at replacing existing national pension systems, since it is an additional and complementary product and further priority should be given to the further development, enhancement and reform of the first and second pillar.***

(4) The Capital Markets Union (CMU) will help mobilise capital in Europe and channel it to all companies, including small and medium enterprises, infrastructure and long term sustainable projects that need it to expand and create jobs. One of the main objectives of the CMU is to increase investment and choices for retail investors by putting European savings to better use. ***For this purpose, a PEPP will represent a step forward for the enhancement of the capital markets integration due to its support to the long-term financing of the real economy.***

(5) As announced in the Commission's Action Plan on building a CMU<sup>1</sup>, in September 2015, "the Commission will assess the case for a policy framework to establish a successful European market for simple, efficient and competitive personal pensions, and determine whether EU legislation is required to underpin this market."

(6) In its Resolution of 19 January 2016<sup>2</sup>, the European Parliament stressed that "an environment must be fostered that stimulates financial product innovation, creating

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<sup>1</sup> Action Plan on Building a Capital Markets Union, European Commission, 30 September 2015 (COM(2015) 468 final).

<sup>2</sup> European Parliament, Resolution of 19 January 2016 on stocktaking and challenges of the EU Financial Services Regulation: impact and the way forward towards a more

more diversity and benefits for the real economy and providing enhanced incentives for investments, and that may also contribute to the delivery of adequate, safe and sustainable pensions, such as, for example, the development of a pan-European Pension Product (PEPP), with a simple transparent design".

- (7) In its conclusions of 28 June 2016<sup>1</sup>, the European Council called for "swift and determined progress to ensure easier access to finance for business and to support investment in the real economy by moving forward with the Capital Markets Union agenda".
- (8) In its Communication of 14 September 2016 Capital Markets Union – Accelerating Reform<sup>2</sup>, the Commission announced that it "will consider proposals for a simple, efficient and competitive EU personal pension product [...] Options under consideration include a possible legislative proposal which could be tabled in 2017."
- (9) In its Communication Mid-Term Review of the Capital Markets Union Action Plan<sup>3</sup>, the Commission announced "a legislative proposal on a pan-European Personal Pension Product (PEPP) by end June 2017. This will lay the foundations for a safer, more cost-efficient and transparent market in affordable and voluntary personal pension savings that can be managed on a pan-European scale. It will meet the needs of people wishing to enhance the adequacy of their retirement savings, address the demographical challenge, complement the existing pension products and schemes, and support the cost-efficiency of personal pensions by offering good opportunities for long-term investment of pension savings".
- (10) Among personal pension products, the development of a PEPP will contribute to increasing choices for retirement saving, *especially for mobile workers*, and establish an EU market for PEPP providers. It *should not, however, call into question the fundamental responsibility of Member States to guarantee a decent minimum standard of living in old age for their citizens and the urgent need to strengthen the*

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efficient and effective EU framework for Financial Regulation and a Capital Markets Union, 2015/2106(INI), point 20.

<sup>1</sup> European Council Conclusions of 28 June 2016, EUCO 26/16, point 11.

<sup>2</sup> COM(2016) 601 final, p. 4.

<sup>3</sup> COM(2017) 292 final, p. 6.

*capacity of public pension systems to provide a secure, substantive and effective social protection for all.*

- (10a)** *Financial education can support the understanding and awareness of households' saving choices in the area of voluntary personal pension schemes. Savers should also have a fair chance to fully grasp the risks and the features related to a pan-European product.*
- (11) A legislative framework for a PEPP will lay the foundations for a successful market in affordable and voluntary retirement-related investments that can be managed on a pan-European scale. By complementing the existing **statutory and occupational pension schemes and products**, it will contribute to meeting the needs of people wishing to enhance the adequacy of their retirement savings, addressing the **demographic** challenge and providing a powerful new source of private capital for long-term investment. This framework will not replace or harmonise existing national personal pension schemes, **nor will it affect existing national statutory and occupational pension schemes and products. The PEPP will neither directly nor indirectly be linked to the occupation or the employment status of the PEPP saver.**
- (11a)** *A legislative framework for PEPPs should not limit the responsibility of Member States to meet their obligations regarding the supply of a sufficient state pension.*
- (12) The Regulation harmonises a set of core features for the PEPP, which concern key elements such as distribution, **contracts**, investment policy, provider switching, or cross-border provision and portability. The harmonisation of these core features will improve the level playing field for personal pension providers at large and help boost the completion of the CMU and the integration of the internal market for personal pensions. It will lead to the creation of a largely standardised pan-European product, available in all Member States, empowering consumers to make full use of the internal market by transferring their pension rights abroad and offering a broader choice between different types of providers, including in a cross-border way. As a result of fewer barriers to the provision of pension services across borders, a pan-European Personal Pension Product will increase competition between providers on a pan-European basis and create economies of scale that should benefit savers.

- (13) Article 114 TFEU allows the adoption of acts both in the shape of Regulations or Directives. The adoption of a Regulation has been preferred as it would become directly applicable in all Member States. Therefore, a Regulation would allow a quicker uptake of the PEPP and contribute more rapidly to address the need for more pension savings and investments in the CMU context. Since this Regulation is harmonising the core features of the PEPPs, they do not have to be subject to specific national rules, so a Regulation appears better suited than a Directive in this case. On the contrary, the features which are out of the scope of the Regulation (e.g. accumulation phase conditions) are subject to national rules.
- (14) PEPP providers should have access to the whole Union market with one single product authorisation issued by the European Insurance and Occupational Pensions Authority ("EIOPA"), on the basis of a single set of rules *and in cooperation with national competent authorities*.



- (16) In order to ensure a high quality of service and effective consumer protection, home and host Member States should closely cooperate in the enforcement of the obligations set out in this Regulation. Where PEPP providers and distributors pursue business in different Member States under the freedom to provide services, the competent authority of the home Member State should be responsible for ensuring compliance with the obligations set out in this Regulation, because of its closer links with the PEPP provider. In order to ensure fair sharing of responsibilities between the competent authorities from the home and the host Member States, if the competent authority of a host Member State becomes aware of any breaches of obligations occurring within its territory, it should inform the competent authority of the home Member State which should then be obliged to take the appropriate measures. Moreover, the competent authority of the host Member State should be entitled to intervene if the home Member State fails to take appropriate measures or if the measures taken are insufficient.
- (17) In the case of the establishment of a branch or a permanent presence in another Member State, it is appropriate to distribute responsibility for enforcement between home and host Member States. While responsibility for compliance with obligations

affecting the business as a whole – such as the rules on professional requirements – should remain with the competent authority of the home Member State under the same regime as in the case of provision of services, the competent authority of the host Member State should assume responsibility for enforcing the rules on information requirements and conduct of business with regard to the services provided within its territory. However, where the competent authority of a host Member State becomes aware of any breaches of obligations occurring within its territory with respect to which this Directive does not confer responsibility on the host Member State, a close cooperation demands that that authority informs the competent authority of the home Member State so that the latter takes the appropriate measures. Such is the case in particular as regards breaches of the rules on good repute, professional knowledge and competence requirements. Moreover, in view of protecting consumers, the competent authority of the host Member State should be entitled to intervene if the home Member State fails to take appropriate measures or if the measures taken are insufficient.

- (18) The competent authorities of the Member States should have at their disposal all means necessary to ensure the orderly pursuit of business by PEPP providers and distributors throughout the Union, whether pursued in accordance with the freedom of establishment or the freedom to provide services. In order to ensure the effectiveness of supervision, all actions taken by the competent authorities should be proportionate to the nature, scale and complexity of the risks inherent in the business of a particular provider or distributor ■.
- (19) The pan-European dimension of the PEPP can be developed not only at the level of the provider, through the possibilities for its cross-border activity, but also at the level of the PEPP saver – through the portability of the PEPP, thus contributing to the safeguarding of personal pension rights of persons exercising their right to free movement under Articles 21 and 45 TFEU. Portability involves the PEPP saver changing residence to another Member State without changing PEPP providers, whereas the switching of PEPP providers does not necessarily involve a change of residence. ***In any case, the place of residence of a PEPP saver should determine the applicable tax regime for the saver.***



- (20) A PEPP should comprise national compartments, each of them accommodating personal pension product features allowing that contributions to the PEPP qualify for incentives. At the level of the individual PEPP saver, a first compartment should be created upon opening of a PEPP.
- (21) ■ Upon launching a PEPP, the provider should provide information on which national compartments are immediately available *in the contract*. ***If a PEPP provider cannot offer a national compartment in a certain Member State, it should provide the PEPP saver with alternative portability options, such as the possibility to continue saving into a PEPP through a partnership arrangement. If no such partnerships exist, the PEPP saver should be able to switch provider free of charge.***
- (22) Taking into account the nature of the pension scheme established and the administrative burden involved, PEPP providers and distributors should provide clear, *easy to understand*, and adequate information to potential PEPP savers and PEPP beneficiaries to support their decision-making about their retirement. For the same reason, PEPP providers and distributors should equally ensure a high level of transparency throughout the various phases of a scheme comprising pre-enrolment, membership (including pre-retirement) and post-retirement. In particular, information concerning accrued pension entitlements, projected levels of retirement benefits, risks and guarantees ***including risks relating to environmental, social and governance factors***, and costs should be given. Where projected levels of retirement benefits are based on economic scenarios, that information should also include an unfavourable scenario, which should be extreme but plausible.
- (23) Before joining a PEPP scheme, potential PEPP savers should be given all the necessary information to make an informed choice ***through the provision of advice assessing their saving demands and needs.***
- (24) In order to ensure optimal product transparency, PEPP ***providers*** should draw up the PEPP key information document for the PEPPs that they manufacture before the product can be distributed to PEPP savers. They should also be responsible for the accuracy of the PEPP key information document. ■

- (25) In order to ensure widespread dissemination and availability of PEPP key information documents, this Regulation should provide for publication by the PEPP *provider* of PEPP key information documents on its website.
- (26) Pension product calculators are already being developed at national level. However, in order for the calculators to be as useful as possible to consumers, they should cover the costs and fees charged by the various PEPP *providers*, together with any further costs or fees charged by intermediaries or other parts of the investment chain not already included by the PEPP *providers*.
- (26a) *A Union pension tracker, enabling citizens to calculate their accumulated pension capital and accrued pension entitlements, so as to have a complete overview, should be developed as a matter of urgency, alongside the development of products like PEPP.***



- (28) The PEPP key information document should be clearly distinguishable and separate from any marketing communications.
- (29) PEPP providers should draw up a Pension Benefit Statement addressed to PEPP savers, in order to present them with key personal and generic data about the PEPP scheme and to ensure continuous information on it. The Pension Benefit Statement should be clear and comprehensive and should contain relevant and appropriate information to facilitate the understanding of pension entitlements over time and across schemes and serve labour mobility. ***The Pension Benefit Statement should be provided annually to the PEPP saver.***
- (30) PEPP providers should inform PEPP savers sufficiently in advance before retirement about their pay-out options ***and at least one year before entering the decumulation phase.*** Where the retirement benefit is not paid out ***in accordance with the options applicable to the Basic PEPP or for an alternative PEPP*** as a lifetime annuity, members approaching retirement should receive information about the benefit payment products available, in order to facilitate financial planning for retirement.

- (31) During the phase when retirement benefits are paid, PEPP beneficiaries should continue to receive information on their benefits and corresponding pay-out options. This is particularly important when a significant level of investment risk is borne by PEPP beneficiaries in the pay-out phase. PEPP beneficiaries should also be informed of any reduction in the level of benefits due, prior to the application of any such reduction, after a decision which will result in a reduction has been taken. ■ PEPP providers are recommended to consult PEPP beneficiaries in advance of any such decision.
- (32) In order to protect adequately the rights of PEPP savers and PEPP beneficiaries, PEPP providers should be able to opt for an asset allocation that suits the precise nature and duration of their liabilities, *including those having a long term horizon*. Therefore, efficient supervision is required as well as an approach to investment rules that allows PEPP providers sufficient flexibility to decide on the most secure and efficient investment policy, while obliging them to act prudently *and in alignment with the PEPP saver's needs and preferences*. Compliance with the prudent person rule therefore requires an investment policy geared to the customers' structure of the individual PEPP provider.
- (33) By setting the prudent person rule as the underlying principle for capital investment and making it possible for PEPP providers to operate across borders, the redirection of savings into the sector of personal retirement provision is encouraged, thereby contributing to economic and social progress. *The prudent person rule should also take into explicit consideration the role played by environmental, social and governance factors in the investment process.*
- (34) This Regulation should ensure an appropriate level of investment freedom for PEPP providers. As very long-term investors with low liquidity risks, PEPP providers are in a position to contribute to the development of the CMU by investing in non-liquid assets such as shares and in other instruments that have a long-term economic profile and are not traded on regulated markets, multilateral trading facilities (MTFs) or organised trading facilities (OTFs) within prudent limits. They can also benefit from the advantages of international diversification. Investments in shares in currencies other than those of the liabilities and in other instruments that have a long-term

economic profile and are not traded on regulated markets, MTFs or OTFs should therefore not be restricted, in line with the prudent person rule so as to protect the interest of PEPP savers and PEPP beneficiaries, except on prudential grounds.

- (35) In the context of deepening the CMU, the understanding of what constitutes instruments with a long-term economic profile is broad. Such instruments are non-transferable securities and therefore do not have access to the liquidity of secondary markets. They often require fixed term commitments which restrict their marketability and should be understood to include participation and debt instruments in, and loans provided to, non-listed undertakings. Non-listed undertakings include infrastructure projects, unlisted companies seeking growth, real estate or other assets that could be suitable for long term investment purposes. Low carbon and climate resilient infrastructure projects are often non-listed assets and rely on long term credits for project financing. Considering the long-term nature of their liabilities, PEPP providers are encouraged to allocate a sufficient part of their asset portfolio to sustainable investments in the real economy with long-term economic benefits, in particular to infrastructure projects and corporates.
- (36) Environmental, social and governance factors, as referred to in the United Nations-supported Principles for Responsible Investment, are important for the investment policy and risk management systems of PEPP providers. PEPP providers should **■** consider such factors in investment decisions and to take into account how they form part of their risk management system *so that stranded assets can be avoided. The information on ESG-factors should be available to EIOPA, the competent authorities and the PEPP saver.*
- (36a) *One of the objectives of regulating PEPPs is to create a safe, cost-friendly long term retirement savings product. Because the investments concerning pension products are long term, special regard must be had to the long term consequences of asset allocation. In particular, environmental, social and governance factors need to be taken into account. PEPP savings should be invested in line with the Union's climate and sustainability objectives as set out in the Paris agreement, Sustainable Development Goals, and the United Nations Guiding Principles on Business and Human Rights. Furthermore, PEPP providers should adopt an investment exclusion***

***policy in order to ensure that savings are not invested in the most controversial and harmful products or tax avoidance tactics.***

- (37) In ensuring compliance with their obligation to develop an investment policy in accordance with the prudent person rule, PEPP providers should be prevented to invest in high-risk and non-cooperative jurisdictions identified by the Financial Action Task Force, ***nor in a country on the Union list of non-cooperative tax jurisdictions, nor in a country on the Union list of high-risk third countries with strategic deficiencies in their regime on anti-money laundering and countering terrorist financing.***
- (38) In view of the long-term retirement objective of the PEPP, the investment options granted to the PEPP savers should be framed, covering the elements which allow investors to make an investment decision ■ .
- (39) ***The Basic PEPP should be a simple and safe product that can be easily acquired in each Member State and should act as a default option. It should seek capital protection for the PEPP saver, either by applying life cycle risk mitigation techniques, or via a capital guarantee. The PEPP saver should be provided with advice on both risks and benefits of the different techniques.***
- (39a) ***In cases of justified reasons, such as in cases of proven negligence, breaches of law or tax avoidance, or when an authorisation of a PEPP is withdrawn, PEPP savers should be able to switch providers any time and free of charge without being charged or locked-up in a contract.***
- (40) The competent authority should exercise its powers having as its prime objectives the protection of the rights of PEPP savers and PEPP beneficiaries and the stability and soundness of PEPP providers.
- (41) Where the PEPP provider is an institution for occupational retirement provision or an investment firm, it should appoint a depositary in relation to the safe-keeping of its assets. This is necessary for protecting consumers, since the sectorial legislation applicable to institutions for occupational retirement provision and investment firms does not provide for the appointment of a depositary.

- (42) Transparency *and fairness* of costs and fees is essential to develop PEPP savers' trust and allow them to make informed choices. Accordingly, the use of non-transparent pricing methods should be prohibited.
- (43) In order to fulfil the objectives set out in this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of specifying the conditions for the exercise of intervention powers by EIOPA and the competent authorities. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (44) The Commission should adopt draft *regulatory* technical standards developed by the ESAs, through the Joint Committee, with regard to the presentation and the content of specific elements the PEPP key information document not covered by the [PRIIPs KID RTS] in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council<sup>1</sup>, of Regulation (EU) No 1094/2010 of the European Parliament and of the Council<sup>2</sup> and of Regulation (EU) No 1095/2010 of the European Parliament and of the Council<sup>3</sup>. The Commission should complement the technical work of the ESAs by conducting consumer tests of the presentation of the key information document as proposed by the ESAs.
- (45) Without prejudice to the right of PEPP customers to bring action in the courts, easily accessible, adequate, independent, impartial, transparent and effective alternative dispute resolution (ADR) procedures should be established between PEPP providers or

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<sup>1</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

<sup>2</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p. 48).

<sup>3</sup> Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010, p. 84).

distributors and PEPP customers for resolving disputes arising from the rights and obligations set out in this Regulation.

- (46) With a view to establishing an efficient and effective dispute resolution procedure, PEPP providers and distributors should put in place an effective complaints procedure that can be followed by their customers before the dispute is referred to be resolved in an ADR procedure or before a court. The complaints procedure should contain short and clearly defined timeframes within which the PEPP provider or distributor should reply to a complaint. ADR entities should have sufficient capacity to engage in an adequate and efficient way in cross-border cooperation with regard to disputes concerning rights and obligations pursuant to this Regulation.
- (47) In order to find better conditions for their investments, thus also stimulating the competition among PEPP providers, PEPP savers should have the right to switch providers during the accumulation and the decumulation phases, through a clear, **low-cost**, quick and safe procedure.
- (48) The switching process should be straightforward for the PEPP saver. Accordingly, the receiving PEPP provider should be responsible for initiating and managing the process on behalf of the PEPP saver. PEPP providers should be able to use additional means, such as a technical solution, on a voluntary basis when establishing the switching service. ***Considering the pan-European nature of the product, PEPP savers should be able to switch free of charge when no compartment is available in the Member State the PEPP saver moves to.***
- (49) Before giving the authorisation for switching, the PEPP saver should be informed of all the steps of the procedure ***and costs*** necessary to complete the switching, ***in order to enable the PEPP saver to make an informed decision about the switching service.***
- (50) The cooperation of the transferring PEPP provider is necessary in order for the switching to be successful. Therefore, the receiving PEPP provider should be provided by the transferring PEPP provider with all the information necessary to reinstate the payments on the other PEPP account. However, such information should not exceed what is necessary in order to carry out the switching.

- (51) In order to facilitate cross-border switching, the PEPP saver should be allowed to ask the new PEPP provider to provide the PEPP saver with information giving details of the new PEPP account, preferably within a single meeting with the new PEPP provider.
- (52) PEPP savers should not be subject to financial losses, including charges and interest, caused by any mistakes made by either of the PEPP providers involved in the switching process. In particular, PEPP savers should not bear any financial loss deriving from the payment of additional fees, interest or other charges as well as fines, penalties or any other type of financial detriment due to delay in the execution of the switching.
- (53) PEPP savers should be given the freedom to decide upon subscription of a PEPP about their pay-out choice (annuities, lump sum, or other) in the decumulation phase, but with a possibility to revise their choice once every *three* years thereafter, in order to be able to best adapt their pay-out choice to their needs when they near retirement.
- (54) PEPP providers should be allowed to make available to PEPP savers a wide range of decumulation options. This approach would achieve the goal of enhanced take-up of the PEPP through increased flexibility and choice for PEPP savers. It would allow providers to design their PEPPs in the most cost-effective way. It is coherent with other EU policies and politically feasible, as it preserves enough flexibility for Member States to decide about which decumulation options they wish to encourage. *However, in the capital guaranteed Basic PEPP, a certain amount (35%) of the capital should be taken out in the form of lifelong annuities to do justice to the retirement nature of the product. Therefore, the ability to take out a percentage of the total amount should be limited to 30% which can be taken out in the first year. For the life-cycle backed Basic PEPP, payment via a drawdown plan should be mandatory.*
- (55) Full transparency on costs and fees related to the investment in a PEPP should be guaranteed. A level-playing field between providers would be established, whilst ensuring consumer protection. Comparative information would be available between different products, thus incentivising competitive pricing.



- (56) Although the ongoing supervision of PEPP providers is to be exercised by the respective competent national authorities, EIOPA should coordinate the supervision with regards to PEPPs, in order to guarantee the *consistent* application of a unified supervisory methodology, contributing in this way to the *pan-European* nature of the pension product.
- (56a) In order to strengthen consumer rights and to facilitate access to a complaints procedure, PEPP savers should be able, either individually or collectively, to submit complaints through their own national competent authority, by way of “one stop shop”. The competent authority where the complaint was submitted should be responsible for the further steps in the complaints procedure.***
- (57) EIOPA should cooperate with national competent authorities and facilitate cooperation *and consistency* between them. In this respect, EIOPA should play a role in the power of competent national authorities to apply supervisory measures by providing evidence about PEPP-related infringements. EIOPA should also provide binding mediation in the event of disagreement between competent authorities in cross-border situations.
- (58) In order to ensure compliance with the provisions of this Regulation by financial undertakings that manufacture PEPP, as well as by financial undertakings and persons that distribute PEPP, and to ensure that they are subject to similar treatment across the Union, administrative sanctions and other measures which are effective, proportionate and dissuasive should be provided.
- (59) In line with the Commission Communication of 8 December 2010 "Reinforcing sanctioning regimes in the financial services sector"<sup>1</sup> and in order to ensure that the requirements of this Regulation are fulfilled, it is important that Member States take necessary steps to ensure that infringements of this Regulation are subject to appropriate administrative penalties and measures.
- (60) Although Member States may lay down rules for administrative and criminal penalties for the same infringements, Member States should not be required to lay down rules

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<sup>1</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Reinforcing sanctioning regimes in the financial services sector", 8 December 2010, COM(2010) 716 final.

for administrative penalties for the infringements of this Regulation which are subject to national criminal law. However, the maintenance of criminal penalties instead of administrative penalties for infringements of this Regulation should not reduce or otherwise affect the ability of competent authorities to cooperate, access and exchange information in a timely way with competent authorities in other Member States for the purposes of this Regulation, including after any referral of the relevant infringements to the competent judicial authorities for criminal prosecution.

- (61) Competent authorities should be empowered to impose pecuniary sanctions which are sufficiently high to offset the actual or potential profits, and to be dissuasive even for larger financial undertakings and their managers.
- (62) In order to ensure a consistent application of sanctions across the Union, the competent authorities should take into account all relevant circumstances when determining the type of administrative sanctions or other measures and the level of administrative pecuniary sanctions.
- (63) In order to ensure that decisions on breaches and penalties by competent authorities have a dissuasive effect on the public at large and to strengthen consumer protection by warning them about PEPPs distributed in infringement of this Regulation, those decisions should be published, provided that the time period for lodging an appeal has passed and no appeal was lodged, unless such disclosure jeopardises the stability of financial markets or an ongoing investigation.
- (64) In order to detect potential breaches, the competent authorities should have the necessary investigatory powers, and should establish effective mechanisms, to enable reporting of potential or actual breaches.
- (64a) Given the pan-European nature of PEPP and the provision of PEPP, cross-border mechanisms for collective compensatory redress for consumers should equally be available.***
- (65) This Regulation should be without prejudice to any provisions in the laws of Member States in respect of criminal offences.

- (66) Any processing of personal data carried out within the framework of this Regulation, such as the exchange or transmission of personal data by the competent authorities, *the storage of personal data in the central register held by EIOPA, the processing of personal data by PEPP providers or PEPP distributors* should be undertaken in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1</sup>, *Directive (EU)2016/680 of the European Parliament and of the Council<sup>2</sup> and a Regulation on the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications)*. Any exchange or transmission of information by the ESAs should be undertaken in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>3</sup>.
- (66a) *Given the sensitivity of personal financial data, strong data protection is of the utmost importance. Therefore it is recommended that data protection authorities are closely involved in the implementation and supervision of this Regulation.*
- (67) Tax incentives can take different forms and play an important role in encouraging the take-up of personal pension products ((PPPs) in a number of Member States. In many Member States the contributions paid for PPPs qualify for some form of tax relief, be it explicit or implicit.
- (68) This Regulation should not be understood as obliging Member States to apply to PEPPs the same tax rules as they would apply to comparable personal pension products under their national laws. However, in application of the national treatment principle, stemming from Articles 21 and 45 of the TFEU and interpreted by the Court

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<sup>1</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

<sup>2</sup> *Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).*

<sup>3</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

of Justice of the European Union, it should be possible for a PEPP that is objectively comparable to a personal pension product (PPP) distributed in a given Member State to benefit from the same tax relief ***and contractual benefits, such as interest promised***, granted to the PPP in this Member State **■**. This also applies if the PEPP is provided by a provider from another Member State.

- (69) Following the launch of the PEPP, Member States are encouraged to take into consideration Commission Recommendation (EU) 2017/... and to extend the benefits of the tax advantages they grant to national PPPs also to the PEPP.
- (70) An evaluation of this Regulation is to be carried out, inter alia, by assessing market developments, such as the emergence of new types of PEPPs, as well as developments in other areas of Union law and the experiences of Member States. ***Such an evaluation has to take account of the different aims and purposes of establishing a well- functioning PEPP-market, and in particular should evaluate whether this Regulation has contributed to the development of multi-pillar pension systems in the Member States and has resulted in more European citizens saving for sustainable and adequate pensions.***
- (70a) ***Given the possible long term implications of this Regulation, it is essential to closely monitor the developments during the initial phase of application. When carrying out the evaluation the Commission should also reflect the experiences of EIOPA, stakeholders and experts, and report to the European Parliament and the Council any observations it might have.***
- (71) This Regulation ***should ensure the respect of*** fundamental rights and observes the principles recognised in particular by the Charter of the Fundamental Rights of the European Union, in particular ***the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life***, the right to the protection of personal data, the right to property, the freedom to conduct a business, the principle of equality between men and women and the principle of a high level of consumer protection.
- (72) Since the objectives of this Regulation, namely to enhance PEPP saver protection and improve PEPP saver confidence in PEPPs, including where those products are

distributed cross-border, cannot be sufficiently achieved by the Member States but can rather, by reason of its effects, be better achieved at Union level the Union may adopt measures, in accordance with principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

##### Subject matter

This Regulation lays down uniform rules on the authorisation, *provision*, distribution and supervision of personal pension products that are distributed in the Union under the designation "pan-European Personal Pension product" or "PEPP".

#### Article 2

##### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) "personal pension product" means a product which:
  - (a) is based on a contract between an individual saver and an entity on a voluntary *and complementary* basis;

■

(c) provides for *long-term* capital accumulation *with the explicit objective of providing income on* retirement.

■

(2) "pan-European Personal Pension Product (PEPP)" means a long-term savings personal pension product, which is provided under an agreed PEPP scheme by a regulated financial undertaking authorised under Union law *and eligible according to Article 5(1)* to manage collective or individual investments or savings, and subscribed to voluntarily by an individual PEPP saver, *or by an independent PEPP savers association on behalf of its members* in view of retirement, with no or strictly limited redeemability;

(3) "PEPP saver" means *any natural person*;

■

(4) "PEPP scheme" means a contract, an agreement, *or* a trust deed *between a PEPP saver and PEPP provider* stipulating which retirement benefits are granted and under which conditions on the basis of an individual retirement savings plan agreed with a PEPP provider;

(5) "PEPP account" means a personal pension account held in the name of a PEPP saver or a PEPP beneficiary which is used for the execution of transactions allowing the PEPP saver to contribute periodically sums towards ■retirement and the PEPP beneficiary to receive ■retirement benefits;

(6) "PEPP provision" means the manufacturing and distribution of a PEPP;

(6a) *"PEPP manufacturer" means a PEPP provider that sets out the conditions of a PEPP scheme in order to operate PEPP accounts on behalf of PEPP savers and beneficiaries;*

(7) "PEPP beneficiary" means a person receiving PEPP retirement benefits;

(8) "PEPP distribution" means the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts for providing a PEPP, of

concluding such contracts, or of assisting in the administration and performance of such contracts, including the provision of information concerning one or more **PEPP** contracts in accordance with criteria selected by PEPP customers through a website or other media and the compilation of a **PEPP** product ranking list, including price and product comparison, or a discount on the price of a pension contract, when the PEPP customer is able to directly or indirectly conclude a pension contract using a website or other media;

- (9) "PEPP retirement benefits" means benefits paid by reference to reaching, or the expectation of reaching, retirement. These benefits may take the form of payments for life, payments made for a temporary period, a lump sum, or any combination thereof;
- (10) "accumulation phase" means the period during which assets (in-payments) are accumulated in a PEPP account and normally runs until the age of retirement of the PEPP beneficiary;
- (11) "decumulation phase" means the period during which assets accumulated in a PEPP account are drawn upon to fund retirement or other income requirements;
- (12) "annuity" means a sum payable at specific intervals over a period, such as the PEPP beneficiary's life or a certain number of years, in return for an investment;
- (13) "drawdown payments" means the possibility for the PEPP beneficiaries to draw discretionary amounts, up to a certain limit on a periodic basis;
- (13a) *"total amount" means the full amount of the accumulated pension capital;***
- (14) "provider of a PEPP" or "PEPP provider" means a financial undertaking authorised to manufacture a PEPP and distributing it;
- (15) "distributor of a PEPP" or "PEPP distributor" means a financial undertaking authorised to distribute PEPPs not manufactured by it ■;
- (16) "durable medium" means any instrument which:

- (a) enables a PEPP customer to store information addressed personally to that customer in a way accessible for future reference and for a period of time adequate for the purposes of the information; and
  - (b) allows the unchanged reproduction of the information stored;
- (17) "competent *authority*" means the national *authority or authorities* designated by each Member State **for the supervision in the framework of this Regulation**;
  - (18) "home Member State of the PEPP provider" means the Member State in which the PEPP provider has *been authorised*;
  - (19) "host Member State of the PEPP provider" means a Member State, other than the home Member State, in which a PEPP provider manufactures or distributes PEPPs;
  - (20) "compartment" means a section which is opened within each individual PEPP *framework contract (PEPP account)* for using incentives fixed at national level for investing in a PEPP by the Member State of the PEPP saver's *place of residence*. Accordingly, an individual may be a PEPP saver or a PEPP beneficiary in each compartment, depending on the respective legal requirements for the accumulation and decumulation phases;
  - (21) "capital" means aggregate *financial* contributions and *the investment return on those contributions*, calculated on the basis of amounts investible after deduction of all fees, charges and expenses that are directly or indirectly borne by investors;
  - (22) "financial instrument" means those instruments specified in Section C of Annex I of Directive 2014/65/EU;
  - (23) "depository" means an institution charged with the safe-keeping of assets and oversight of compliance with the fund rules and applicable law;
  - (24) "*basic PEPP*" means an investment strategy *as defined in Article 39, which will be applied* when the PEPP saver has not provided instructions on how to invest the funds accumulating in his *or her* PEPP account;



- (25) "risk mitigation techniques" means techniques for a systematic reduction in the extent of exposure to a risk and/or the likelihood of its occurrence;
- (26) "switching providers" means, upon a PEPP customer's request, transferring from one PEPP provider to another any positive balance from one PEPP account to the other, with or without closing the former PEPP account;
- (27) "advice" means the provision of a personal recommendation to a PEPP saver, either upon his *or her* request or at the initiative of the PEPP provider or distributor, in respect of one or more contracts for subscribing PEPP;
- (28) "PEPP customer" means a PEPP saver, a prospective PEPP saver and/or a PEPP beneficiary;
- (28a) *"partnerships" means cooperation between PEPP providers to offer compartments in different Member States, in the view of the portability service as referred to in Article 12;*
- (28b) *"biometric risks" means risks linked to longevity, disability and death;*
- (28c) *"environmental, social and governance (ESG) factors " means the Union's climate and sustainability objectives as set out in the Paris agreement, the Sustainable Development Goals, the United Nations Guiding Principles on Business and Human Rights and the UNPRI definitions.*

### Article 3

#### Applicable rules

The provision of PEPPs shall be subject to:

- (a) this Regulation,
- (b) where authorised by this Regulation, the provisions of the *PEPP scheme*,
- (c) in the case of matters not regulated by this Regulation or, where matters are partly regulated by it, of those aspects not covered by it, by:

- (i) the provisions of laws adopted by Member States in implementation of EU measures relating specifically to the PEPP;
- (ii) the provisions of Member States' laws which would apply to a comparable personal pension product manufactured and distributed in accordance with the law of the Member State in which the manufacturer has its registered office.

## CHAPTER II

### AUTHORISATION

#### Article 4 Authorisation

1. A PEPP may only be manufactured and distributed in the Union where it has been authorised by EIOPA in accordance with this Regulation.
2. Authorisation of a PEPP shall be valid in all Member States. It entitles the authorisation holder to manufacture and distribute the PEPP as authorised by EIOPA.

#### Article 5 Application for authorisation of a PEPP

1. Only the following financial undertakings may apply for authorisation of a PEPP:
  - (a) credit institutions authorised in accordance with Directive 2013/36/EU of the European Parliament and of the Council<sup>1</sup>;

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<sup>1</sup> Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

- (b) insurance undertakings authorised in accordance with Directive 2009/138/EC of the European Parliament and of the Council<sup>1</sup>, engaged in direct life insurance according to Article 2(3) and Annex II of Directive 2009/138/EC;
- (c) institutions for occupational retirement provision registered or authorised in accordance with Directive 2016/2341/EU of the European Parliament and of the Council<sup>2</sup> ***which cannot cover biometric risks themselves and do not guarantee an investment performance or a certain level of retirement benefits. All assets and liabilities corresponding to a PEPP shall be ring-fenced without the possibility to transfer them to the other retirement provision business of the institution;***
- (d) investment firms authorised in accordance with Directive 2014/65/EU, engaged in portfolio management or investment advice;
- (e) investment companies or management companies authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council<sup>3</sup>;
- (f) alternative investment fund ("AIF") managers authorised in accordance with Directive 2011/61/EU of the European Parliament and of the Council<sup>4</sup>;
- (fa) other entities registered or authorised in accordance with provisions in national law to provide personal pension products as defined in Article 2(1) of this Regulation, provided that those provisions are deemed sufficient after an assessment by EIOPA, in accordance with the procedure laid down in paragraph 5a.***

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<sup>1</sup> Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).

<sup>2</sup> Directive 2016/2341/EU of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (recast) (OJ L 354, 23.12.2016, p. 37).

<sup>3</sup> Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast) (OJ L 302, 17.11.2009, p. 32).

2. Financial undertakings listed in paragraph 1 shall submit their applications for authorisation of a PEPP to EIOPA. The application shall include the following:
  - (a) information on standard contract terms to be proposed to PEPP savers;
  - (b) information on the identity of the applicant and its current and previous financial experience and history;
  - (c) the identity of the persons who effectively conduct the business of manufacturing and/or distributing the PEPP;
  - (d) information on arrangements regarding portfolio and risk management and administration with regard to the PEPP *including, where applicable, information ensuring that the PEPP provider does not invest in nuclear weapon producers*;
  - (e) information about the investment strategies, the risk profile and other characteristics of the PEPP;
  - (f) a list of Member States where the applicant PEPP intends to market the PEPP;
  - (g) information on the identity of the depositary, if applicable;
  - (h) a description of the information to be made available to PEPP savers, including a description of the arrangements for dealing with complaints submitted by PEPP savers;
  - (i) proof of the authorisation or registration of the applicant in accordance with the applicable Union legislative act referred to in paragraph 1 and information on the identity of the competent authority which granted it.
3. EIOPA may request clarification and additional information as regards the documentation and information provided under paragraph 1.
4. EIOPA may ask the competent authority of the financial undertaking applying for the authorisation for clarification and information as regards the documentation referred to in paragraph 2. The competent authority shall reply to the request within 10

working days from the date on which it has received the request submitted by EIOPA.

5. Any subsequent modifications to the documentation and information referred to in paragraphs 1 and 2 shall be immediately notified to EIOPA.

**5a** *The national competent authority for the entities referred to in point (fa) of paragraph 1 shall request from EIOPA an assessment of the compliance of such entities as well as the reasons why the authorisation is justified. EIOPA shall adopt a decision within two months of receiving such a request. If the competent authority does not agree with EIOPA's decision, it shall duly present its reasons and shall explain and justify any significant deviation therefrom.*

## Article 6

### Conditions for granting authorisation of PEPPs

1. Within two months from the date of submission of a complete application, **as validated by the NCA**, EIOPA shall grant authorisation of the PEPP only where EIOPA is fully satisfied that the following conditions are met:
  - (a) the applicant complies with this Regulation;
  - (b) the applicant is authorised by its competent authority to manufacture products that follow investment strategies of the type covered by this Regulation;
  - (c) the proposed PEPP meets all the requirements of this Regulation;
  - (d) the proposed PEPP is based on an investment strategy that allows for the retirement outcome contained in the proposed contractual rules.
2. Before taking a decision on the application, EIOPA shall consult the competent authority of the applicant.
3. EIOPA shall communicate to the applicant the reasons for any refusal to grant authorisation of a PEPP.

4. EIOPA shall withdraw the authorisation of a PEPP in the event that the conditions for granting this authorisation are no longer fulfilled.
5. EIOPA shall, on a quarterly basis, inform the competent authorities of the financial undertakings listed in Article 5(1) of decisions to grant, refuse or withdraw authorisations pursuant to this Regulation.
6. EIOPA shall ensure co-ordination with and transmit information for the purposes of the exercise of their respective tasks to the European Supervisory Authority (European Banking Authority) established by Regulation (EU) No 1093/2010 and the European Supervisory Authority (European Securities and Markets Authority) established by Regulation (EU) No 1095/2010.

#### Article 7

##### Designation and conversion

1. The designation "PEPP" or "pan-European Personal Pension Product" in relation to a personal pension product may only be used where the personal pension product has been authorised by EIOPA to be distributed under the designation "PEPP" in accordance with this Regulation.
2. Existing personal pension products may be converted into "PEPPs" following authorisation by EIOPA.
3. PEPP providers shall not convert "PEPPs" into personal pension products that are not covered by this Regulation.

#### Article 8

##### Distribution of PEPP

1. Financial undertakings referred to in Article 5(1) may distribute PEPPs which they have not manufactured *provided that this activity is covered by the scope of authorisation according to the relevant sectoral legislation.*

2. Insurance intermediaries registered in accordance with Directive 2016/97/EU of the European Parliament and of the Council<sup>1</sup> are entitled to distribute PEPPs which they have not manufactured.

#### Article 9

##### Prudential regime applicable to different types of providers

***Without prejudice to this Regulation***, PEPP providers and PEPP distributors shall comply with the relevant prudential regime applicable to them in accordance with the legislative acts referred to in ***Articles 5(1) and 8(2)***.

#### Article 10

##### Central public register

EIOPA shall keep a central public register identifying each PEPP authorised under this Regulation, the provider of this PEPP, ***the date of the authorisation of the PEPP, the available national compartments it offers*** and the competent authority of the PEPP provider. The register shall be made publicly available in electronic format ***and shall be promptly updated if changes occur***.

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<sup>1</sup> Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (OJ L 26, 2.2.2016, p. 19).

# CHAPTER III

## CROSS-BORDER PROVISION AND PORTABILITY OF PEPP

### SECTION I

#### FREEDOM TO PROVIDE SERVICES AND FREEDOM OF ESTABLISHMENT

##### Article 11

Exercise of the freedom to provide services and freedom of establishment by PEPP providers and distributors

PEPP providers may provide *and distribute* and PEPP distributors may distribute PEPPs within the territory of a host Member State under the freedom to provide services or the freedom of establishment, provided they do so in compliance with the relevant rules and procedures established by or under the Union legislative acts applicable to them as referred to in Article 5(1) or 8(2).

### SECTION II

#### PORTABILITY

##### Article 12

The portability service

1. *For the purposes of this Section*, the portability service *is defined as the right of* PEPP savers to continue contributing to *a* PEPP which they have already contracted with its provider, while changing their *place of residence* by moving to another Member State.
2. In case of using the portability service, PEPP savers are entitled to retain all advantages and incentives granted by the PEPP provider and connected with continuous investment in the same PEPP *and shall have the right to simultaneously save in more than one compartment*.



## Article 13

### Provision of the portability service

1. PEPP providers shall provide the portability service to PEPP savers holding a PEPP account with them and requesting this service.
2. When proposing a PEPP, the PEPP provider or PEPP distributor shall provide potential PEPP savers with information *on the portability options and* on which national compartments are **■** available, *either via the provider or from a registered partner.*
3. *The available compartments shall be listed in the PEPP scheme. The PEPP provider shall be obliged to offer at least the compartments listed in that scheme. Where a PEPP saver changes his or her place of residence to another Member State and the PEPP provider cannot offer a compartment in that Member State itself, or via a partnership, the PEPP saver shall be offered the possibility to switch to another PEPP provider, free of charge.*

## Article 14

### Compartments of the PEPP

**■** *Where PEPP providers provide a portability service to PEPP savers in accordance with Article 13, they shall ensure that within each individual PEPP account a new compartment could be opened, either by transferral of accumulated assets or by opening an additional compartment corresponding to the legal requirements and conditions for using incentives fixed at national level for the PEPP by the Member State to which the PEPP saver moves and for which a national compartment is available.*

## Article 15

### Opening of a new compartment

1. **■** *Immediately after receiving the PEPP savers request to use the portability service, the PEPP provider shall inform the PEPP saver about the options available to him or her, including the possibility to continue saving in a new compartment.*

*Consequently, if no partnership or compartment is available, the PEPP provider shall inform the PEPP saver about the right of costless switching.*

2. *Where a PEPP saver signals an intention to avail of a compartment in another Member State, as offered by the PEPP provider, the PEPP provider shall obtain the following information:*

- (a) the PEPP saver's new Member State of *residence*;
- (b) the date from which the *contributions* should be directed to the *new* compartment;
- (c) any relevant information about possible modifications in the adopted investment strategy or other elements.

*(ca) whether the mobility concerns a transferral or addition.*

3. Not later than three months following the reception of the request under paragraph 2, the PEPP provider shall provide the PEPP saver with complete information free of charge and advice under Chapter IV, Sections II and III regarding the conditions applicable to the new compartment.

4. The new compartment shall be opened by signing a new contract, or amending the existing one, between the PEPP saver and the PEPP provider, in compliance with the applicable contract law. The date of opening shall be defined in the contract or, in the absence of such stipulation, the new compartment shall be deemed opened at the date of signing the contract or the amendment thereto.

## Article 16

Transfer of accumulated *assets* between the compartments of the PEPP

1. At the request of the PEPP saver, the PEPP provider shall propose to the PEPP saver to arrange for *full or partial* transfer of accumulated assets *and, where applicable, the surrender value, to other* compartments of the PEPP account.

*1a. Immediately after receipt of the application for transfer of the deposits made, the PEPP provider shall inform the PEPP saver about all implications of this asset-*

*transfer and on applicable transfer taxes, fees and charges and of the financial consequences of keeping the existing compartment.*

2. The transfer of assets under paragraph 1 shall be made possible without redemption in kind of these assets.

#### Article 17

##### Provision of information on portability to the national authorities

1. All contractual arrangements for providing the portability service, *as well as any partnership arrangements as defined by this Regulation* shall be notified by the PEPP provider to *EIOPA and, where appropriate, to ESMA* .
2. The information under paragraph 1 shall be filed electronically in a central database held with *EIOPA* within one month of opening the new compartment *or partnership*. *The database shall be accessible to the national competent authorities, who shall automatically receive information concerning the local compartments in the case of any changes as well as the details of any existing or new partnership arrangements between providers* and shall contain at least:
  - (a) identification of the compartment (name of the PEPP saver; applicable national legislation; date of opening the compartment *and partnership*);
  - (b) amount of the transferred assets, if any;
  - (c) way of transfer (with or without redemption in kind of the transferred assets).

# CHAPTER IV

## DISTRIBUTION AND INFORMATION REQUIREMENTS

### SECTION I

#### GENERAL PROVISIONS

#### Article 18

##### General principle

When carrying out distribution activities for PEPPs, PEPP providers and PEPP distributors shall always act honestly, fairly and professionally in accordance with the best interests of their *PEPP* customers.

#### Article 19

##### Distribution regime applicable to different types of PEPP providers and distributors

For the distribution of PEPPs, the different types of PEPP providers and distributors shall comply with *all the provisions of this Chapter*.

■

#### Article 20

##### Inducements

With regard to the payment or reception of fees or commissions or the provision or reception of non-monetary benefits ■, PEPP providers or distributors ■ shall comply with the applicable national laws giving effect to the rules set out for investment firms in Article 24(7)(b), (8) and (9) of Directive 2014/65/EU. For the purposes of this Article, the reference in Article 24(9) of Directive 2014/65/EC to Article 23 of that Directive shall be read as a reference to Article 18 of this Regulation.

## Article 21

### Electronic distribution and other durable mediums

All documents and information under this Chapter shall be provided *free of charge* to PEPP customers, *either* electronically *or upon request on another durable medium*, provided that the PEPP customer is enabled to store such information in a way accessible for future reference and for a period of time adequate for the purposes of the information and that the tool allows the unchanged reproduction of the information stored. Upon request, PEPP providers and distributors shall provide free of charge those documents and information also on another durable medium.

## Article 22

### Product oversight and governance requirements

1. PEPP providers shall maintain, operate and review a process for the approval of each PEPP, or significant adaptations of an existing PEPP, before it is distributed to PEPP customers.

The product approval process shall be proportionate and appropriate to the nature of the PEPP.

The product approval process shall specify an identified target market for each PEPP, ensure that all relevant risks to such identified target market are assessed and that the intended distribution strategy is consistent with the identified target market, and take reasonable steps to ensure that the PEPP is distributed to the identified target market.

The PEPP provider shall understand and regularly review the PEPPs it provides, taking into account any event that could materially affect the potential risk to the identified target market, to assess at least whether the PEPPs remain consistent with the needs of the identified target market and whether the intended distribution strategy remains appropriate.

PEPP providers shall make available to PEPP distributors all appropriate information on the PEPP and the product approval process, including the identified target market of the PEPP.

PEPP distributors shall have in place adequate arrangements to obtain the information referred to in the fifth subparagraph and to understand the characteristics and identified target market of each PEPP.

2. The policies, processes and arrangements referred to in this Article shall be without prejudice to all other requirements under or applying by virtue of this Regulation including those relating to disclosure, suitability or appropriateness, identification and management of conflicts of interest, **■** inducements *and ESG-factors*.

## SECTION II

### PRE-CONTRACTUAL INFORMATION

#### Article 23

##### PEPP key information document

1. Before a PEPP is proposed to PEPP savers, the PEPP provider shall draw up for that product a PEPP key information document in accordance with the requirements of this Chapter and shall publish the document on its website.
2. *The key information document shall constitute pre-contractual information. It shall be accurate, fair, clear and not misleading. It shall provide key information and shall be consistent with any binding contractual documents, with the relevant parts of the offer documents and with the terms and conditions of the PEPP.*
3. *The key information document shall be a stand-alone document, clearly separate from marketing materials. It shall not contain cross-references to marketing material. It may contain cross-references to other documents including a prospectus where applicable, and only where the cross-reference is related to the information required to be included in the key information document.*
- 3a. *By way of derogation from paragraph 3b, where a PEPP offers the PEPP saver a range of options for investments, such that all information with regard to each*

*underlying investment option cannot be provided within a single, concise stand-alone document, the key information document shall provide at least a generic description of the underlying investment options and state where and how more detailed pre-contractual information documentation relating to the investment products backing the underlying investment options can be found.*

- 3b.** *The PEPP key information document shall be written in a concise manner, using clear, succinct and comprehensible language and shall contain the key information that PEPP savers require. The key information document should be presented in a way that is easy to read and shall consist of a maximum of three sides of A4-sized paper when printed.*
- 3c.** *In addition to the PEPP key information document, PEPP providers and PEPP distributors shall provide potential PEPP savers with a summary of and references to relevant reports on the solvency and financial condition of the PEPP provider, allowing them easy access to this information.*
- 3d.** *Potential PEPP savers shall also be provided with information on the past performance of investments related to the PEPP, covering the years the PEPP has been operating.*
- 3f.** *Where colours are used in the key information document, they shall not diminish the comprehensibility of the information if the key information document is printed or photocopied in black and white.*
- 3g** *Where the corporate branding or logo of the PEPP manufacturer or the group to which it belongs is used in the key information document, it shall not distract the PEPP saver from the information contained in the document or obscure the text.*
- 4.** In addition to the PEPP key information document, PEPP providers and PEPP distributors shall provide potential PEPP savers with references to any reports on the solvency and financial condition of the PEPP provider, allowing them easy access to this information.

**I**

6. In order to ensure consistent application of this Article, the European Supervisory Authorities (European Banking Authority, European Securities and Markets Authority and EIOPA) ("ESAs") shall, through the Joint Committee of the ESAs, develop draft **regulatory** technical standards specifying the details of the presentation and the content of each of the elements of information referred to in *this Article*, together with the requirements needed to present that information in a standardised format allowing for comparison.

When developing the draft **regulatory** technical standards the ESAs shall take into account the various types of PEPPs, the differences between them and the capabilities of PEPP savers as well as the features of the PEPPs so as to allow the PEPP saver to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future.

The ESAs shall submit those draft **regulatory** technical standards to the Commission by ... .

Power is conferred **on** the Commission to adopt **regulatory** technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.

#### *Article 23a*

##### *Information in the PEPP key information document*

1. *The title 'PEPP key information document' shall appear prominently at the top of the first page of the PEPP key information document. The PEPP key information document shall be presented in the sequence laid down in paragraphs 2 and 3.*
2. *An explanatory statement shall appear directly underneath the title of the PEPP key information document. It shall read: 'This document provides you with key information about this pension product. It is not marketing material. The information is required by law to help you understand the nature, risks, costs,*



*potential gains and losses of this product and to help you compare it with other products.’*

**3. The PEPP key information document shall contain at least the following information:**

- (a) at the beginning of the document, the name of the PEPP, whether it is a basic PEPP, the identity and contact details of the PEPP provider, information about the competent authority of the PEPP provider and the date of the document;**
- (b) where applicable, a comprehension alert which shall read: ‘You are about to purchase a product that is not simple and may be difficult to understand’;**
- (c) under a section titled ‘What is this product, the nature and main features of the PEPP, including:**
  - (i) a description of the retirement benefits and the extent to which they are guaranteed, as well as the extent to which they bear risks, the investment method and the outpayment options and a statement that advises on outpayment shall be provided one year before retirement;**
  - (ii) the legal information about the retirement age in the Member State, including whether there is a possibility to keep contributing to the scheme after retirement;**
  - (iii) information on the tax treatment of the PEPP;**
  - (iv) information on the portability options and switching service;**
  - (v) information on the possibilities and consequences of an early withdrawal from the PEPP scheme;**
  - (vi) available information related to the performance of the investment of the PEPP in terms of ESG factors;**
  - (vii) the objective of the PEPP, including a specification of the markets the PEPP invests in;**

- (viii) *a description of the type of pension saver to whom the PEPP is intended to be marketed, in particular in terms of the ability to bear investment loss and the investment horizon;*
- (ix) *where the PEPP offers insurance benefits, details of those insurance benefits, including the circumstances that would trigger them.*
- (d) *under a section titled ‘What are the risks and what could I get in return?’, a brief description of the risk-reward profile comprising the following elements:*
- (i) *a summary risk indicator, supplemented by a narrative explanation of that indicator, its main limitations and a narrative explanation of the risks which are materially relevant to the PEPP and which are not adequately captured by the summary risk indicator;*
- (ii) *the possible maximum loss of invested capital, including, information on:*
- appropriate performance scenarios, and the assumptions made to produce them;*
  - where applicable, information on conditions for returns to PEPP savers or built-in performance caps;*
- (e) *under a section titled ‘What happens if [the name of the PEPP manufacturer] is unable to pay out?’, a brief description of whether the related loss is covered by an investor compensation or guarantee scheme and if so, which scheme it is, the name of the guarantor and which risks are covered by the scheme and which are not;*
- (f) *under a section titled ‘What are the costs?’, the costs associated with an investment in the PEPP, comprising both direct and indirect costs to be borne by the PEPP saver, including one-off and recurring costs, presented by means of summary indicators of those costs and, to ensure comparability,*

*total aggregate costs expressed in monetary and percentage terms, to show the compound effects of the total costs on the investment.*

*The key information document shall include a clear indication that advisors, distributors or any other person advising on, or selling, the PEPP will provide information detailing any cost of distribution that is not already included in the costs specified above, so as to enable the PEPP savers to understand the cumulative effect that those aggregate costs have on the return of the investment;*

- (g) under a section titled ‘How long should I hold it and can I take money out early?’
  - (i) where applicable, whether there is a cooling off period or cancellation period for the PEPP;*
  - (ii) an indication of the recommended and, where applicable, required minimum holding period;*
  - (iii) the ability to make, and the conditions for, any disinvestments before maturity, including all applicable fees and penalties, having regard to the risk and reward profile of the PEPP and the market evolution it targets;*
  - (iv) information about the potential consequences of cashing in before the end of the term or recommended holding period, such as the loss of capital protection or additional contingent fees;**
- (h) under a section titled ‘How can I complain?’, information about how and to whom a PEPP saver can make a complaint about the product or the conduct of the PEPP manufacturer or a person advising on, or selling, the product;*
- (i) under a section titled ‘Other relevant information’, a brief indication of any additional information documents to be provided to the PEPP saver at the pre-contractual and/or the post-contractual stage, excluding any marketing material;*

4. *Layering of the information required under paragraph (3) shall be permitted, whereby detailed parts of the information can be presented through pop-ups or through links to accompanying layers, so as to ensure the key information document is able to fulfil the obligation set out in Article 23(3b) on the length of the key information document.*

*In order to ensure consistent application of this Article, EIOPA shall, in consultation with the ESA's, develop draft regulatory technical standards:*

- (a) specifying the details of the presentation and the content of each of the elements of information referred to in article 19 together with the requirements needed to present that information in a standardised format allowing for comparison;*
- (b) specifying the calculation methodologies necessary for the information under paragraph 3(d)(i), 3(d)(iii) and 3(f);*
- (c) specifying, where layering of information is permitted, which of the information should be in the core presentation, and which information is provided in the additional layers of detail.*

*When developing the draft regulatory technical standards the ESAs shall take into account the various types of PEPPs, the differences between them and the capabilities of PEPP savers as well as the features of the PEPPs so as to allow the PEPP saver to select between different underlying investments or other options provided for by the product, including where this selection can be undertaken at different points in time, or changed in the future.*

#### *Article 23b*

##### *Language of the PEPP Key Information Document*

1. The PEPP key information document shall be written in the official languages, or in at least one of the official languages, used in the part of the Member State where the PEPP is distributed, or in another language accepted by the competent authorities of

that Member State, or where it has been written in a different language, it shall be translated into one of these languages.

*The translation shall faithfully and accurately reflect the content of the original key information document.*

2. *If a PEPP is promoted in a Member State through marketing documents written in one or more official languages of that Member State, the key information document shall at least be written in the corresponding official languages.*
3. *The PEPP Key Information Document will be made available upon request in an appropriate format to PEPP savers with a visual or hearing impairment as well as for low literate and illiterate PEPP savers.*

#### *Article 23c*

##### *PEPP Key Information Document Revision*

1. *The PEPP manufacturer shall review the information contained in the key information document regularly and shall revise the document where the review indicates that changes need to be made. The revised version shall be made available promptly.*
2. *In order to ensure consistent application of this Article, the ESAs shall, through the Joint Committee, develop draft regulatory technical standards specifying:*
  - (a) *the conditions for reviewing the information contained in the key information document;*
  - (b) *the conditions under which the key information document must be revised;*
  - (c) *the specific conditions under which information contained in the key information document must be reviewed or the key information document revised where a PEPP is made available to PEPP savers in a non-continuous manner;*

- (d) *the circumstances in which PEPP savers are to be informed about a revised key information document for a PEPP purchased by them, as well as the means by which the PEPP savers are to be informed.*

*The ESAs shall submit those draft regulatory technical standards to the Commission 12 months after coming into force of this Regulation.*

*Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and of Regulation (EU) No 1095/2010.*

#### *Article 23d*

##### *Marketing Communication*

*Marketing communications that contain specific information relating to the PEPP shall not include any statement that contradicts the information contained in the key information document or diminishes the significance of the key information document. Marketing communications shall indicate that a key information document is available and supply information on how and from where to obtain it, including the PEPP manufacturer's website.*

#### *Article 23e*

##### *Civil Liability*

- 1. The PEPP manufacturer shall not incur civil liability solely on the basis of the key information document, including any translation thereof, unless it is misleading, inaccurate or inconsistent with the relevant parts of legally binding pre-contractual and contractual documents or with the requirements laid down in Article 23.*
- 2. A PEPP saver who demonstrates loss resulting from reliance on a key information document under the circumstances referred to in paragraph 1, when making an investment into the PEPP for which that key information document was produced,*

*may claim damages from the PEPP manufacturer for that loss in accordance with national law.*

3. *Elements such as 'loss' or 'damages' as referred to in paragraph 2 which are not defined shall be interpreted and applied in accordance with the applicable national law as determined by the relevant rules of private international law.*
4. *This Article does not exclude further civil liability claims in accordance with national law.*
5. *The obligations under this Article shall not be limited or waived by contractual clauses.*

#### *Article 23f* *Insurance Elements*

*Where the PEPP key information document concerns an insurance contract, the insurance undertakings' obligations are only towards the policyholder of the insurance contract and not towards the beneficiary of the insurance contract.*

#### *Article 23g* *Provision of the key information document*

1. *A person advising on, or selling, a PEPP shall provide PEPP savers with the key information document in good time before those PEPP savers are bound by any contract or offer relating to that PEPP.*
2. *A person advising on, or selling, a PEPP may satisfy the requirements of paragraph 1 by providing the key information document to a person with written authority to make investment decisions on behalf of the PEPP savers in respect of transactions concluded under that written authority.*

*Article 23h*

*Disclosure of information to PEPP savers related to distribution*

1. *PEPP providers and distributors shall ensure that, in goodtime before the conclusion of a PEPP-related contract, PEPP providers, intermediaries or distributors referred to in Article 5(1) and Article 8 of this Regulation shall provide PEPP savers or potential PEPP savers with at least the following information:*
  - (a) *whether they have a holding, direct or indirect, representing 10 % or more of the voting rights or of the capital in a given PEPP provider;*
  - (b) *in relation to the contracts proposed or advised upon, whether:*
    - (i) *a PEPP provider or parent undertaking of a PEPP provider has a holding, direct or indirect, representing 10 % or more of the voting rights or of the capital in the PEPP intermediary or distributor;*
    - (ii) *they give advice on the basis of a fair and personal analysis;*
    - (iii) *they are under a contractual obligation to conduct distribution business exclusively with one or more PEPP providers, in which case it is to provide the names of those PEPP providers; or*
    - (iv) *they are under a contractual obligation to conduct distribution business exclusively with one or more PEPP providers and does not give advice on the basis of a fair and personal analysis, in which case it is to provide the names of the PEPP providers with which it may and does conduct business;*
  - (c) *the nature of the remuneration received in relation to the contract;*
  - (d) *whether in relation to the contract, they work on the basis of:*
    - (i) *a fee, that is the remuneration paid directly by the PEPP saver;*
    - (ii) *a commission of any kind, that is the remuneration included in the costs and charges of the distribution of the PEPP;*



- (iii) any other type of remuneration, including an economic benefit of any kind offered or given in connection with the contract; or*
  - (iv) a combination of any type of remuneration set out in points (i), (ii) and (iii).*
- 2. Where the fee is payable directly by the PEPP saver, the PEPP intermediary or distributor shall inform the PEPP saver of the amount of the fee or, where that is not possible, of the method for calculating the fee.*
- 3. If any payments, other than the scheduled payments, are made by the PEPP saver under the contract after its conclusion, the PEPP intermediary or distributor shall also make the disclosures in accordance with this Article for each such payment.*
- 4. Member States shall ensure that in good time before the conclusion of a contract, the PEPP provider communicates to the PEPP saver the nature of the remuneration received by its employees in relation to the contract.*
- 5. If any payments, other than the scheduled payments, are made by the PEPP saver under the contract after its conclusion, the PEPP provider shall also make the disclosures in accordance with this Article for each such payment.*
- 6. Appropriate information shall be provided in good time, prior to the conclusion of a contract, to PEPP savers or potential PEPP savers with regard to the distribution of the PEPP, and with regard to all costs and related charges. That information shall include at least the following:*
  - (a) when advice is provided, whether the PEPP intermediary or distributor will provide the PEPP savers with a periodic assessment of the suitability of the PEPP recommended to that PEPP savers ;*
  - (b) as regards the information on all costs and related charges to be disclosed, information relating to the distribution of the PEPP, including the cost of advice, where relevant, the cost of the PEPP recommended or marketed to the PEPP saver and how the PEPP saver may pay for it, also encompassing any third party payments in accordance with Article 28.*

7. *The information referred to in this paragraph 3 shall be provided in a standardised format allowing for comparison and in a comprehensible form in such a manner that PEPP savers are reasonably able to understand the nature and risks concerning the PEPP offered and, consequently, to take investment decisions on an informed basis.*
8. *The Commission shall be empowered to adopt delegated acts in accordance with Article 62 in order to specify:*
  - (a) *the conditions under which the information must comply in order to be fair, clear and not misleading, including the criteria on which the standardised format referred to in paragraph 2 shall be based;*
  - (b) *the details about content and format of information to PEPP savers in relation to PEPP providers, intermediaries and distributors and costs and charges.*

### SECTION III

#### ADVICE

##### Article 25

###### Specification of demands and needs and provision of advice

1. Prior to the conclusion of a PEPP-related contract, the PEPP provider or distributor of this Regulation shall specify, on the basis of information obtained from the PEPP saver, the retirement-related demands and the needs of that PEPP saver and shall provide the PEPP saver with objective information about the PEPP in a comprehensible form to allow that PEPP saver to make an informed decision.

Any contract proposed shall be consistent with the PEPP savers's retirement demands and needs, *including their accrued pension rights*.

2. **█** The PEPP provider or distributor referred to in Article 19(c) of this Regulation shall provide the PEPP saver with a personalised recommendation explaining why a particular PEPP would best meet the PEPP savers's demands and needs.
3. *Where a PEPP provider or distributor informs the PEPP saver that it gives its advice on an independent basis, it shall give that advice on the basis of an analysis of a sufficiently large number of personal pension products available on the market to enable it to make a personal recommendation, in accordance with professional criteria, regarding which the PEPP-related contract would be adequate to meet the PEPP saver's needs and also contain factors that may pose a risk for the PEPP saver.*
4. *When providing advice at any stage during the contract, the PEPP provider shall obtain the necessary information regarding the PEPP saver's knowledge and experience in the investment field relevant to the PEPP, that person's financial situation including his or her ability to bear losses, and his or her investment objectives including his or her risk tolerance so as to enable the PEPP provider, intermediary or distributor to recommend to the PEPP saver or potential PEPP saver the PEPP that is suitable for him or her and, in particular, is in accordance with his or her risk tolerance and ability to bear losses..*
  - 4a. *In the case of a Basic PEPP, a PEPP saver shall be informed about the applicable investment option.*
  - 4b. *Advice may be provided through digital channels, with respect to all rules stipulated in this Regulation.*
5. PEPP providers, distributors *and intermediaries* shall ensure and demonstrate to competent authorities on request that natural persons giving advice on PEPPs possess the necessary knowledge and competence to fulfil their obligations under this **Regulation**. Member States shall publish the criteria to be used for assessing such knowledge and competence.

**█**

SECTION IV  
INFORMATION DURING THE TERM OF THE CONTRACT

Article 27

General provisions

1. PEPP providers shall draw up a concise personalised document containing key information for each PEPP saver taking into consideration the specific nature of national pension systems and of relevant *legislation, including* national social, labour and tax law (“PEPP Benefit Statement”). The title of the document shall contain the words “PEPP Benefit Statement”.
2. ***The exact date to which the information in the PEPP Benefit Statement refers to shall be stated prominently.***
3. In addition, the PEPP saver shall be kept informed throughout the term of the contract of any change concerning the following information:
  - (a) the policy conditions, both general and special;
  - (b) the name of the PEPP provider’s undertaking, its legal form or the address of its head office and, where appropriate, of the branch which concluded the contract;
  - (c) all the information referred to in Article 23(2) to (5) in the event of a change in the PEPP conditions or amendment of the law applicable to the PEPP-related contract;
  - (d) information on how the investment policy takes into account environmental, social and governance factors.
- 3 a. ***The information contained in the PEPP Benefit Statement shall be accurate, updated and made available to each PEPP saver free of charge through electronic means, including on a durable medium or by means of a website, or on paper, at least annually. A paper copy shall be provided to PEPP savers on request in addition to any information through electronic means.(Rapporteur 114) Any***

*material change to the information contained in the PEPP Benefit Statement compared to the previous year shall be clearly indicated.*

## Article 28

### PEPP Benefit Statement

1. The PEPP Benefit Statement shall include, at least, the following key information for PEPP savers:
  - (a) personal details of the PEPP saver, name of the PEPP provider, information on pension benefit projections, information on accrued entitlements or accumulated capital, contributions paid by the PEPP saver or any third party and information on the funding level of the PEPP scheme **■**;
  - (b) *a clear indication of the statutory retirement age of the PEPP saver, the retirement age laid down in the pension scheme or estimated by the PEPP provider, or the retirement age set by the PEPP saver, as applicable and if different from the retirement age, the expected start of the decumulation phase;*
  - (c) *the name of the PEPP provider and its contact address and identification of the PEPP scheme of the PEPP saver;*
  - (d) *information on pension benefit projections based on the retirement age as specified in point (b), and a disclaimer that those projections may differ from the final value of the benefits received. If the pension benefit projections are based on economic scenarios, that information shall also include a best estimate scenario and an unfavourable scenario, taking into consideration the specific nature of the PEPP scheme;*
  - (e) *information on the accrued entitlements or accumulated capital taking into consideration the specific nature of the PEPP scheme;*
  - (ea) *information on the contributions paid by any third party and the PEPP saver into the PEPP scheme, at least over the last 12 months, taking into consideration the specific nature of the PEPP scheme;*

- (eb) information on the past performance of the PEPP scheme as a whole or, where relevant, of the PEPP saver's investment option presented in a chart covering performance for any years available;*
  - (ec) a breakdown of the costs deducted by the PEPP provider at least over the last 12 months, indicating the costs of administration, costs of safekeeping of assets, costs related to portfolio transactions and other costs, as well as an estimation of the impact of the costs on the final benefits;*
  - (ed) information on the funding level of the PEPP scheme as a whole;*
  - (ef) Information on the investment policy relating to ESG-factors.*
2. *The Pension Benefit Statement shall specify where and how to obtain supplementary information including: further practical information about the PEPP savers options provided under the PEPP scheme.*
  3. *EIOPA shall, in consultation with the European Central Bank and national supervisors, develop draft regulatory technical standards specifying the rules to determine the assumptions on pension benefit projections referred to in point (a), the presentation of past performance referred in point (eb) and the presentation of costs referred to in point (ec) of paragraph 1. Those rules shall be applied by PEPP providers to determine, where relevant, the annual rate of nominal investment returns, the annual rate of inflation and the trend of future wages.*

*EIOPA shall submit those draft regulatory technical standards to the Commission by ... Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.*

## Article 29

### Supplementary information

1. The PEPP Benefit Statement shall specify where and how to obtain supplementary information including:

- (a) further practical information *about the PEPP savers options provided under the pension scheme, including the portability options;*
- (b) information on the annual accounts and annual reports of the PEPP provider, taking into account each PEPP scheme operated by that provider, and, where applicable, annual accounts and annual reports for each PEPP scheme;

■

- (d) where applicable, information about the assumptions used for amounts expressed in annuities, in particular with respect to the annuity rate, the type of PEPP provider and the duration of the annuity;
- (e) information on the level of benefits, in case of early redemption.

2. For PEPP schemes where PEPP savers bear investment risk and where an investment option is imposed on the PEPP saver by a specific rule specified in the PEPP scheme, the PEPP Benefit Statement shall indicate where additional information is available.

*2a. For PEPP schemes where PEPP savers bear investment risk and where an investment option is imposed on the PEPP saver by a specific rule specified in the PEPP scheme, the PEPP Benefit Statement shall indicate where additional information is available.*

*2b. The information has to be easily available through electronic means and free of charge.*

*2 c. At the request of a PEPP saver or a PEPP beneficiary or their representatives, the PEPP provider shall provide the following additional information:*

- (a) the annual accounts and the annual reports referred to in point (b) of Article 29 paragraph 2c (a) or, where a PEPP provider is responsible for more than one PEPP scheme, the accounts and reports relating to their particular PEPP scheme;*
- (b) the statement of investment-policy principles, referred to in point (c) of Article 29 paragraph 2c (b);*

*(c) any further information about the assumptions used to generate the projections referred to in point (a) of Article 29 paragraph 2c (c).*

*2d. The information shall be easily available through electronic means and free of charge.*

3. EIOPA, after consulting national authorities and after consumer *organisations*, shall develop draft *regulatory* technical standards specifying the details of the presentation of the information referred to in Article 28 and in this Article.

EIOPA shall submit those draft *regulatory* technical standards to the Commission by ... [within 9 months after the entry into force of the Regulation].

Power is conferred on the Commission to adopt the *regulatory* technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

### Article 30

Information to be given to PEPP savers during the pre-retirement phase and to PEPP beneficiaries during the decumulation phase

- 1. In addition to the PEPP Benefit Statement, PEPP providers shall provide each PEPP saver at least one year before the retirement age as specified in Article 30 or at the request of the PEPP saver, with information about the benefit pay-out options available in taking their retirement benefits.*
- 2. One year prior to the retirement phase, a communication shall be sent to the PEPP saver in order to inform him or her about the upcoming start of the decumulation phase and the possible forms of out-payments..*

■



SECTION V  
REPORTING TO NATIONAL AUTHORITIES

Article 32  
General provisions

1. PEPP providers shall submit to the competent *authority of the home Member State, and, where appropriate, to the competent authority of the host Member State*, the information which is necessary for the purposes of supervision. That information shall include at least the information necessary to carry out the following activities when performing a supervisory review process:
  - (a) to assess the system of governance applied by the PEPP providers, the business they are pursuing, the valuation principles applied for solvency purposes, the risks faced and the risk-management systems, and their capital structure, needs and management;
  - (b) to make any appropriate decisions resulting from the exercise of their supervisory rights and duties.
  
2. The competent authorities shall have the following powers:
  - (a) to determine the nature, the scope and the format of the information referred to in paragraph 1 which they require PEPP providers to submit at the following points in time:
    - (i) at predefined periods;
    - (ii) upon occurrence of predefined events;
    - (iii) during enquiries regarding the situation of a PEPP provider;
  - (b) to obtain from the PEPP providers any information regarding contracts which are held by PEPP providers or regarding contracts which are entered into with third parties; and
  - (c) to require information from external experts, such as auditors and actuaries.

3. The information referred to in paragraphs 1 and 2 shall comprise the following:
  - (a) qualitative or quantitative elements, or any appropriate combination thereof;
  - (b) historic, current or prospective elements, or any appropriate combination thereof;
  - (c) data from internal or external sources, or any appropriate combination thereof.
4. The information referred to in paragraphs 1 and 2 shall:
  - (a) reflect the nature, scale and complexity of the business of the PEPP provider concerned, and in particular the risks inherent in that business;
  - (b) be accessible, complete in all material respects, comparable and consistent over time;
  - (c) be relevant, reliable and comprehensible.
5. PEPP providers shall have appropriate systems and structures in place to fulfil the requirements laid down in paragraphs 1 to 4 as well as a written policy, approved by the administrative, management or supervisory body of the PEPP provider, ensuring the ongoing appropriateness of the information submitted.
6. Upon request addressed to the competent authorities, EIOPA shall have access to the information submitted by PEPP providers.
7. The Commission shall adopt delegated acts in accordance with Article 62 specifying the information referred to in paragraphs 1 to 4, with a view to ensuring to the appropriate extent convergence of supervisory reporting.

EIOPA, after consulting national authorities and after consumer testing, shall develop draft implementing technical standards regarding the format of supervisory reporting.

EIOPA shall submit those draft implementing technical standards to the Commission by ... [within 9 months after the entry into force of the Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

## CHAPTER V

### ACCUMULATION PHASE

#### SECTION I

#### INVESTMENT RULES FOR PEPP PROVIDERS

##### Article 33

##### Investment rules

1. PEPP providers shall invest in accordance with the "prudent person" rule and in particular in accordance with the following rules:
  - (a) the assets *corresponding to the PEPP* shall be invested in the best long-term interests of PEPP savers as a whole. In the case of a potential conflict of interest, a PEPP provider, or the entity which manages its portfolio, shall ensure that the investment is made in the sole interest of PEPP savers;
  - (aa) The assets corresponding to the PEPP shall be invested in a way that mitigates risks related to ESG-factors and take into consideration the potential long-term impact of investment decisions on ESG-factors.***
  - (b) the assets shall be invested in such a manner as to ensure the security, quality, liquidity and profitability of the portfolio as a whole;
  - (c) the assets shall be predominantly invested on regulated markets. Investment in assets which are not admitted to trading on a regulated financial market must in any event be kept to prudent levels;

- (d) investment in derivative instruments shall be possible insofar as such instruments contribute to a reduction in investment risks or facilitate efficient portfolio management. Those instruments shall be valued on a prudent basis, taking into account the underlying asset, and included in the valuation of a PEPP provider's assets. PEPP providers shall also avoid excessive risk exposure to a single counterparty and to other derivative operations;
- (e) the assets shall be properly diversified in such a way as to avoid excessive reliance on any particular asset, issuer or group of undertakings and accumulations of risk in the portfolio as a whole. Investments in assets issued by the same issuer or by issuers belonging to the same group shall not expose a PEPP provider to excessive risk concentration;
- (f) the assets shall not be invested in a high-risk and non-cooperative jurisdiction identified by the *Council conclusions of 5 December 2017 on the EU list of non-cooperative jurisdictions for tax purposes or in high-risk and non-cooperative jurisdictions identified by the* Financial Action Task Force *and in the Commission Delegated Regulation (EU) 2016/1675*;
- (g) the PEPP provider shall not expose himself to risks stemming from excessive leverage and excessive maturity transformation.

2. The rules set out in points (a) to (g) of paragraph 1 apply only to the extent that there is no more stringent provision in the relevant sectorial legislation applicable to the PEPP provider.

## SECTION II

### INVESTMENT RULES FOR PEPP SAVERS

#### Article 34

##### General provisions

1. PEPP providers *and PEPP distributors* shall offer *a Basic PEPP and may offer alternative investment options.*



3. All investment options shall be designed by PEPP providers on the basis of proven risk-mitigation techniques which shall ensure sufficient protection for PEPP savers.

#### Article 35

##### Choice of investment option by the PEPP saver

The PEPP saver shall opt for an investment option *after receiving the relevant information, advice and decision support tool*, upon conclusion of the PEPP contract.

#### Article 36

##### Conditions for modification of the chosen investment option

1. *The terms for modification of the investment option shall be listed in the PEPP contract.*



#### Article 37

##### *The Basic PEPP*

1. *The Basic PEPP shall be a safe and cost-effective product that can be easily acquired, including through digital channels in each Member State. It represents the default investment options.*

- 1a. *The risk mitigation technique applied to the basic PEPP shall be consistent with the objective to allow the PEPP saver to recoup the capital.*
2. *The overall costs and fees for the Basic PEPP shall not exceed 1% of the accumulated capital per annum.*



#### Article 39

##### Delegated act on the investment options

1. *The use of risk-mitigation techniques shall ensure that the investment strategy for the PEPP is designed so as to build up a stable and adequate individual future retirement income from the PEPP and to ensure a fair treatment of all generations of PEPP savers. The applicable risk-mitigation techniques shall include provisions (a) or (b), or a combination thereof, and may be complemented by provisions set out in (c):*
  - (a) *provisions for gradually adapting the investment allocation to mitigate the financial risks of investments for cohorts corresponding to the remaining duration (life-cycling);*
  - (b) *provisions establishing reserves from contributions or investment returns, which shall be allocated to PEPP savers in a fair and transparent manner, to mitigate investment losses (capital guarantee);*
  - (c) *provisions for using appropriate financial guarantees to protect against investment losses.*
2. *If a PEPP under Article 37 of this Directive is offered without the provision of point (a) or based on a combination of the provisions under paragraph 1 of this Article, the PEPP provider or distributor should clearly explain the existence of a PEPP based solely on capital guarantees, the reasons for recommending a PEPP based on the provisions of points (b) and (c) or a combination of the above*

*provisions and clearly demonstrate any additional risks that such PEPPs might entail in comparison to a capital guarantee based PEPP, in written format.*

3. *In order to establish criteria for effective risk-mitigation techniques that can be applied in a consistent manner, EIOPA shall develop draft regulatory technical standards specifying the details of the provisions for the risk-mitigation techniques. EIOPA shall submit those draft regulatory technical standards to the Commission by ... [xxx after the date of entry into force of this Regulation]. Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 10-14 of Regulation (EU) No 1094/2010.*

### SECTION III

#### OTHER ASPECTS OF THE ACCUMULATION PHASE

##### Article 40

##### Conditions related to the accumulation phase

*Unless specified in this Regulation, the [ ] conditions related to the accumulation phase shall be determined by Member States, and shall be no less favourable than applicable national rules.*

**[**

# CHAPTER VI

## INVESTOR PROTECTION

### Article 41

#### Depositary

1. Where the PEPP provider is an institution for occupational retirement provision or an investment firm as referred to in Article 5(1), it *may* appoint one or more depositaries for the safe-keeping of assets and oversight duties.
2. For the appointment of the depositary and the execution of its tasks Article 33(5), (6) and (7) of Directive 2016/2341/EU shall be applied accordingly.
3. For the safekeeping of assets and the liability of the depositary Article 34(1) and (2) of Directive 2016/2341/EU shall be applied accordingly. The depositary shall be liable to the PEPP provider and the PEPP savers for any loss suffered by them as a result of its unjustifiable failure to perform its obligations or its improper performance of them. The depositor's liability shall not be affected by the fact that it has entrusted to a third party all or some of the assets in its safe-keeping.
4. For the oversight duties of a depositary Article 35(1) of Directive 2016/2341/EU shall be applied accordingly.

### Article 42

#### Coverage of biometric risks

*Without prejudice to Article 5*, PEPP providers may offer PEPPs with *a supplementary* option ensuring the coverage of the risk of biometric risks. ■



Article 43  
Complaints

1. PEPP providers and distributors shall put in place and apply adequate and effective complaint resolution procedures for the settlement of complaints lodged by PEPP customers concerning their rights and obligations under this Regulation.
2. Those procedures shall be applied in every Member State where the PEPP provider or distributor offers its services and shall be available in an official language of the relevant Member State as chosen by the PEPP customer, or in another language if agreed between the PEPP provider or distributor and the PEPP customer.
3. PEPP providers and distributors shall make every possible effort to reply, on paper or, if agreed between the PEPP provider or distributor and the PEPP customer, on another durable medium, to the PEPP customers' complaints. The reply shall address all points raised, within an adequate timeframe and at the latest within 15 business days of receipt of the complaint. In exceptional situations, if the answer cannot be given within 15 business days for reasons beyond the control of the PEPP provider or distributor, it shall be required to send a holding reply, clearly indicating the reasons for a delay in answering to the complaint and specifying the deadline by which the PEPP customer will receive the final reply. In any event, the deadline for receiving the final reply shall not exceed 35 business days.
4. PEPP providers and distributors shall inform the PEPP customer about at least one alternative dispute resolution (ADR) entity which is competent to deal with disputes concerning PEPP customers' rights and obligations under this Regulation.
5. The information referred to in paragraph 3 shall be mentioned in a clear, comprehensive and easily accessible way on the website of the PEPP provider or distributor, at the branch, and in the general terms and conditions of the contract between the PEPP provider or distributor and the PEPP customer. It shall specify how further information on the ADR entity concerned and on the conditions for using it can be accessed.
6. The competent authorities shall set up procedures which allow PEPP customers and other interested parties, including consumer associations, to submit complaints to the

competent authorities with regard to PEPP providers' and distributors' alleged infringements of this Regulation. In all cases, complainants shall receive replies.

- 6a.** *The competent authority of the main establishment or the single establishment of the provider or the distributor shall be competent to act as lead competent authority for cross-border provision of PEPPs.*
- 6b.** *In cases that concern more than one Member State, the complainant may choose to lodge his or her complaint through the competent authority of his or her own Member State, regardless of where the infringement occurred. To this end, and notwithstanding paragraph 6a, each competent authority shall be competent to handle a complaint lodged with it or a possible infringement of this Regulation, if the subject matter relates to an establishment in its Member State, or if it substantially affects PEPP savers in its Member State. In such cases, the competent authority shall inform the lead competent authority without delay of that matter.*
- 6c.** *In case there is no agreement between the competent authorities concerned, the dispute resolution procedure foreseen in Article 56 shall apply.*



## CHAPTER VII

### SWITCHING OF PEPP PROVIDERS

#### Article 45

##### Provision of the switching service

1. PEPP providers shall provide a switching service transferring, upon a request of the PEPP saver, any positive balance from a PEPP account held with the transferring provider to a new PEPP account opened with the receiving provider, with closing the former PEPP account.

The switching service may be provided by PEPP providers established in the same Member State (domestic switching) or in different Member States (cross-border switching).

*In the case of domestic switching, PEPP providers are required to inform national competent authorities of any switching service they provide to PEPP savers. National competent authorities shall monitor the compliance of PEPP providers with this Chapter on a regular basis.*

*In the case of cross-border switching, PEPP providers are required to inform EIOPA of any switching service they provide to PEPP savers. EIOPA shall monitor the compliance of PEPP providers with this Chapter on a regular basis.*

2. *The terms for switching PEPP providers shall be listed in the PEPP contract. In any case the PEPP saver has the right to switch at the moment of retirement.*

#### Article 46

##### The switching service

1. At the request of the PEPP saver, the switching service shall be initiated by the receiving PEPP provider. ■
2. The receiving PEPP provider shall initiate the switching service upon receipt of the *request* from the PEPP saver.

The *request* shall be drawn up in an official language of the Member State where the switching service is being initiated or in any other language agreed between the parties.

The *request* shall allow the PEPP saver to provide specific consent to the performance by the transferring PEPP provider of each of the tasks referred to in paragraph 3 and to provide specific consent to the performance by the receiving PEPP provider of each of the tasks referred to in paragraph 5.

The *request* shall allow the PEPP saver to specifically identify asset portfolios and/or amounts that are to be switched. The *request* shall also allow PEPP savers to specify

the date from which payments are to be executed to the PEPP account opened with the receiving PEPP provider. That date shall be at least six working days after the date on which the receiving PEPP provider receives the documents transferred from the transferring PEPP provider pursuant to paragraph 4. Member States may require the *request* from the PEPP saver to be in writing and that a copy of the *request* be provided to the PEPP saver.

3. Within *five* working days from receipt of the *request* referred to in paragraph 2, the receiving PEPP provider shall request the transferring PEPP provider to carry out the following tasks, if provided for in the PEPP saver's *request*:
  - (a) transmit to the receiving PEPP provider and, if specifically requested by the PEPP saver in the *request*, to the PEPP saver, a list of the existing assets that are being switched;
  - (b) transfer any remaining positive balance to the PEPP account opened or held with the receiving PEPP provider on the date specified by the PEPP saver; and
  - (c) close the PEPP account held with the transferring PEPP provider on the date specified by the PEPP saver.
  
4. Upon receipt of a request from the receiving PEPP provider, the transferring PEPP provider shall carry out the following tasks, if provided for in the PEPP saver's authorisation:
  - (a) send the receiving PEPP provider the information referred to in point (a) of paragraph 3 within five working days;
  - (b) where the transferring PEPP provider does not provide a system for automated redirection of the incoming payments to the PEPP account opened by the PEPP saver with the receiving PEPP provider, stop accepting incoming payments on the PEPP account with effect from the date specified in the *request*. Member States may require the transferring PEPP provider to inform the PEPP saver of the reason for not accepting the incoming payments;

- (c) transfer the remaining positive balance from the PEPP account to the new PEPP account opened with the receiving PEPP provider on the date specified in the *request*;
  - (d) close the PEPP account on the date specified in the *request* if the PEPP saver has no outstanding obligations on that PEPP account and provided that the actions listed in points (a), (b) and (c) of this paragraph have been completed. The PEPP provider shall immediately inform the PEPP saver where such outstanding obligations prevent the PEPP saver's account from being closed.
5. Within five working days of receipt of the information requested from the transferring PEPP provider as referred to in paragraph 3, the receiving PEPP provider shall, as and if provided for in the *request* and to the extent that the information provided by the transferring PEPP provider or the PEPP saver enables the receiving PEPP provider to do so, carry out the following tasks:
- (a) make any necessary preparations to accept incoming payments and accept them with effect from the date specified in the *request*;
  - (b) inform payers specified in the authorisation of the details of the PEPP saver's PEPP account with the receiving PEPP provider and transmit to the payers a copy of the PEPP saver's *request*.

If the receiving PEPP provider does not have all the information it needs to inform the payers as referred to in point (b) of the first subparagraph, it shall ask the PEPP saver or the transferring PEPP provider to provide the missing information.

Where the PEPP savers chooses to personally provide the information referred to in point (b) of the first subparagraph to the payers rather than provide specific consent in accordance with paragraph 2 to the receiving PEPP provider to do so, the receiving PEPP provider shall provide the PEPP saver with standard letters providing details of the PEPP account and the starting date specified in the *request* within the deadline referred to in the first subparagraph.

## Article 47

### Facilitation of domestic and cross-border switching for PEPP savers

1. Where a PEPP saver indicates to his *or her* PEPP provider that he *or she* wishes to open a PEPP account with a PEPP provider located in the same or another Member State, the PEPP provider with which the PEPP saver holds a PEPP account shall on receipt of such request provide the following assistance to the PEPP saver:
  - (a) provide the PEPP saver free of charge with available information about recurring incoming payments to the PEPP saver's PEPP account in the previous 13 months;
  - (b) transfer the positive balance remaining on the PEPP account held by the PEPP saver to the PEPP account opened by the PEPP saver with the receiving PEPP provider, provided that the request includes full details allowing the receiving PEPP provider and the PEPP saver's PEPP account to be identified;
  - (c) close the PEPP account held by the PEPP saver.
2. If the PEPP saver has no outstanding obligations on the PEPP account, the PEPP provider with which the PEPP saver holds that PEPP account shall provide assistance referred to in points (a), (b) and (c) of paragraph 1 of this Article on the date specified by the PEPP saver, which shall be at least six business days after that PEPP provider receives the PEPP saver's request unless otherwise agreed between the parties. The PEPP provider shall immediately inform the PEPP saver where outstanding obligations prevent his *or her* PEPP account from being closed.

## Article 48

### Fees and charges connected with the switching service

1. PEPP savers shall be able to access free of charge their personal information held either by the transferring or by the receiving PEPP provider.
2. The transferring PEPP provider shall provide the information requested by the receiving PEPP provider pursuant to point (a) of Article 46(4) without charging the PEPP saver or the receiving PEPP provider.

3. The total fees and charges applied by the transferring PEPP provider to the PEPP saver for the closure of the PEPP account held with it shall be limited to no more than **0,5%** of the positive balance to be transferred to the receiving PEPP provider.
4. **■** The receiving PEPP provider *may only charge* the actual costs of *the switching service*.

#### Article 49

##### Protection of PEPP savers against financial loss

1. Any financial loss, including fees, charges and interest, incurred by the PEPP saver and resulting directly from the non-compliance of a PEPP provider involved in the switching process with its obligations under Article 46 shall be refunded by that PEPP provider without delay.
2. Liability under paragraph 1 shall not apply in cases of abnormal and unforeseeable circumstances beyond the control of the PEPP provider pleading for the application of those circumstances, the consequences of which would have been unavoidable despite all efforts to the contrary, or where a PEPP provider is bound by other legal obligations covered by Union or national legislative acts.
3. Liability under paragraph 1 shall be established in accordance with the legal requirements applicable at national level.
4. The PEPP saver shall bear the costs and any risk of financial loss connected with the redemption in kind of the assets held in the PEPP account for the sake of their transfer from the transferring PEPP provider to the receiving PEPP provider.
5. The PEPP saver shall bear the costs and any risk of financial loss connected with the capital protection provided by the transferring PEPP provider. This capital protection, allowing the PEPP saver to recoup the capital invested and providing an inflation indexation mechanism, shall be consumed at the moment of switching providers.

- 5a. *Member States shall ensure that cross-border complaints and redress mechanisms are set up, allowing for individual as well as collective compensatory redress across borders.***

## Article 50

### Information about the switching service

1. PEPP providers shall give to PEPP savers the following information about the switching service:
  - (a) the roles of the transferring and receiving PEPP provider for each step of the switching process, as indicated in Article 46;
  - (b) the time-frame for completion of the respective steps;
  - (c) the fees and charges charged for the switching process;
  - (d) any information that the PEPP saver will be asked to provide.

PEPP providers shall also give other information, including, where applicable, the information necessary for the identification of the deposit guarantee scheme, investor-compensation scheme or pension protection scheme within the Union of which the PEPP provider is a member. A "pension protection scheme" means an arrangement to pay compensation to PEPP savers or PEPP beneficiaries in the event of insolvency of the PEPP provider.

2. The information referred to in paragraph 1 shall be available in electronic form on the PEPP provider's website at all times, shall be made available free of charge on paper or another durable medium at all PEPP provider's premises accessible to PEPP savers, and shall be provided to PEPP savers on request.



## CHAPTER VIII

### DECUMULATION PHASE

#### Article 51

##### Conditions related to the decumulation phase

1. *Unless specified in this Regulation*, the **■** conditions related to the decumulation phase shall be determined by Member States *and shall be no less favourable than applicable national rules*.

**■**

#### Article 52

##### Forms of out-payments

1. PEPP providers may make available to PEPP savers one or more of the following forms of out-payments:
  - (a) annuities;
  - (b) *total amount*;
  - (c) drawdown payments;
  - (d) combinations of the above forms.
2. *For the Basic PEPP, in the first year a maximum of 30 % of the total amount shall be permitted. The remaining capital may be drawdown payments, annuities or a combination thereof. In the case of a Basic PEPP with a capital guarantee as the investment option, a minimum of 35 % of the out-payment will be in lifelong annuities.*
- 2a. *Considering the individual PEPP saver's circumstances and the relative value of the accumulated capital to current annuity values, annuities in the Basic PEPP may be taken out as a total amount or drawdown-payments instead. In order to establish consistent processes and criteria to assess such circumstances and to*

*identify the appropriate relative value of the accumulated capital, EIOPA shall develop draft regulatory technical standards.*

*EIOPA shall submit those draft regulatory technical standards to the Commission by ...*

*Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Article 10 of Regulation (EU) No 1094/2010.*

- 2b. PEPP savers shall choose the form of out-payments five years before the beginning of the decumulation phase.*

## CHAPTER IX SUPERVISION

### Article 53

Supervision by the competent authorities and monitoring by EIOPA

1. The competent authority of the PEPP provider shall supervise compliance with this Regulation on an ongoing basis. It shall also be responsible for supervising compliance with the obligations set out in the rules or instruments of incorporation of the PEPP provider, and the adequacy of its arrangements and organisation with the tasks to be fulfilled when providing a PEPP.
2. EIOPA shall ■ verify that *the "PEPP" shall not be used* unless ■ authorised under, and *in compliance* with, this Regulation.
3. In coordination with the other European Supervisory Authorities, EIOPA shall review the annual plans for supervision of the PEPP providers adopted by the competent authorities.

## Article 54

### Powers of competent authorities

Each Member State shall ensure that the competent authority has all supervisory and investigatory powers that are necessary for the exercise of their functions pursuant to this Regulation.

## Article 55

### Cooperation *and consistency*

1. *Each* competent authority *shall contribute to the consistent application of the Regulation throughout the Union. For that purpose, the competent authorities shall cooperate with each other and with the Commission.*
2. The competent authorities shall cooperate with each other in accordance with Regulation 575/2013/EU of the European Parliament and of the Council<sup>1</sup>, Directive 2009/138/EC, Directive 2016/2341/EU, Directive 2014/65/EU, Directive 2009/65/EC and Directive 2011/61/EU.
3. The competent authorities and EIOPA shall cooperate with each other for the purpose of carrying out their respective duties under this Regulation in accordance with Regulation (EU) No 1094/2010.
4. The competent authorities and EIOPA shall exchange all information and documentation necessary to carry out their respective duties under this Regulation in accordance with Regulation (EU) No 1094/2010, in particular to identify and remedy infringements of this Regulation.
5. In order to ensure consistent application of this Article, EIOPA shall develop draft implementing technical standards specifying the details of the mechanism for *consistency*, cooperation and exchange of information, together with the requirements needed to present the information above in a standardised format allowing for comparison.

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<sup>1</sup> Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

EIOPA shall submit those draft implementing technical standards to the Commission by ... [within 6 months after the entry into force of the Regulation].

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1094/2010.

## Article 56

### Settlement of disagreements between competent authorities in cross-border situations

1. Where a competent authority of a PEPP provider or distributor disagrees about the procedure or content of an action or inaction of a competent authority of another Member State regarding the application of this Regulation, EIOPA, at the request of one or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4.

In cases involving cross-border situations, and where on the basis of objective criteria disagreement between competent authorities from different Member States can be identified, EIOPA may, on its own initiative or upon request of the European Supervisory Authority (European Banking Authority) or the European Supervisory Authority (European Securities and Markets Authority), assist the competent authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4.

2. EIOPA shall set a time limit for conciliation between the competent authorities taking into account any relevant time periods, as well as the complexity and urgency of the matter. At that stage EIOPA shall act as a mediator.

If the competent authorities concerned fail to reach an agreement within the conciliation phase referred to in paragraph 2, EIOPA may, in accordance with the procedure set out in the third and fourth subparagraph of Article 44(1) of Regulation (EU) No 1094/2010, take a decision requiring them to take specific action or to

refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with Union law.

3. Without prejudice to the powers of the Commission under Article 258 TFEU, where a competent authority does not comply with the decision of EIOPA, and thereby fails to ensure that a PEPP provider or PEPP distributor complies with requirements directly applicable to it by virtue of this Regulation, EIOPA may adopt an individual decision addressed to the PEPP provider or PEPP distributor requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice.
4. Decisions adopted under paragraph 4 shall prevail over any previous decision adopted by the competent authorities on the same matter. Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 3 or 4 shall be compatible with those decisions.
5. In the report referred to in Article 50(2) of Regulation (EU) No 1094/2010, the Chairperson of EIOPA shall set out the nature and type of disagreements between competent authorities, the agreements reached and the decisions taken to settle such disagreements.

## CHAPTER X

### SANCTIONS

#### Article 57

##### Administrative sanctions and remedial measures

1. Without prejudice to the right for Member States to provide for and impose criminal sanctions, competent authorities may impose administrative sanctions and remedial measures applicable to situations where:

- (a) a financial undertaking as referred to in Article 5(1) has obtained an authorisation of a PEPP through false or misleading statements or any other irregular means in breach of Articles 5 and 6;
  - (b) a financial undertaking as referred to in Article 5(1) provides, respectively distributes, products bearing the designation "PEPP" or "pan-European Personal Pension Product" without the required authorisation;
  - (c) a PEPP provider has infringed Article 7(3) ■ or has failed to meet the requirements and obligations set out in Chapter IV, Chapter V, Article 43 and Chapter VII;
  - (d) a depositary has failed to fulfil its oversight duties under Article 42.
2. Those sanctions and measures shall be effective, proportionate and dissuasive and shall include, at least the following:
- (a) a public statement, which indicates the identity of the natural or legal person and the nature of the infringement in accordance with Article 59;
  - (b) an order requiring the natural or legal person to cease the conduct and to desist from a repetition of that conduct;
  - (c) a temporary ban against any member of the financial undertaking's management body or any other natural person, who is held responsible, to exercise management functions in such undertakings;
  - (d) maximum administrative fines of at least EUR 5 000 000, or in the Member States whose currency is not the euro, the corresponding value in the national currency on [*date of entry into force of this Regulation*];
  - (e) in the case of a legal person, the maximum administrative fines referred to in point (d) may be of up to 10 % of the total annual turnover according to the last available accounts approved by the management body; where the legal person is a parent undertaking or a subsidiary of the parent undertaking which has to prepare consolidated financial accounts in accordance with Directive

2013/34/EU of the European Parliament and of the Council<sup>1</sup>, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with the relevant accounting legislative acts according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

- (f) maximum administrative fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in points (d) and (e).
3. Where the provisions referred to in the first paragraph apply to legal persons, the competent authorities shall apply the administrative sanctions and remedial measures set out in paragraph 2 to members of the management body, and to other individuals who under national law are responsible for the infringement.
  4. Any decision imposing administrative sanctions or remedial measures set out in paragraph 2 shall be properly reasoned and subject to the right of appeal before a tribunal.

## Article 58

### Exercise of the power to impose administrative sanctions and remedial measures

1. The competent authorities shall exercise the powers to impose administrative sanctions and remedial measures referred to in Article 57 in accordance with their national legal frameworks:
  - (a) directly;
  - (b) in collaboration with other authorities;
  - (c) by application to the competent judicial authorities.

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<sup>1</sup> Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

2. The competent authorities, when determining the type and level of an administrative sanction or remedial measure imposed under Article 57, shall take into account all relevant circumstances, including, where appropriate:
  - (a) the materiality, gravity and the duration of the infringement;
  - (b) the degree of responsibility of the natural or legal person responsible for the infringement;
  - (c) the financial strength of the responsible natural or legal person, as indicated in particular by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;
  - (d) the importance of profits gained or losses avoided by the responsible natural or legal person, insofar as they can be determined;
  - (e) the losses for third parties caused by the infringement, insofar as they can be determined;
  - (f) the level of cooperation of the responsible natural or legal person with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;
  - (g) previous infringements by the responsible natural or legal person.

#### Article 59

##### Publication of administrative sanctions and remedial measures

1. The competent authorities shall publish without undue delay on their official websites any decision imposing an administrative sanction or remedial measure for infringement of this Regulation after the addressee of the sanction or measure of the sanction or measure has been notified of that decision.
2. The publication referred to in paragraph 1 shall include information on the type and nature of the infringement and the identity of the persons responsible and the sanctions or measures imposed.



3. Where the publication of the identity, in case of legal persons, or the identity and the personal data, in the case of natural persons is considered by the competent authority to be disproportionate following a case-by-case assessment, or where the competent authority considers that the publication jeopardises the stability of financial markets or an on-going investigation, competent authorities shall either:
  - (a) defer the publication of the decision imposing the administrative sanction or remedial measure until the moment where the reasons for non-publication cease to exist; or
  - (b) publish the decision imposing the administrative sanction or remedial measure, omitting for a reasonable period of time the identity and personal data of the addressee, if it is envisaged that within that period the reasons for anonymous publication shall cease to exist and provided that such anonymous publication ensures an effective protection of the personal data concerned; or
  - (c) not publish at all the decision to impose the administrative sanction or remedial measure in the event that the options set out in points (a) and (b) are considered to be insufficient to ensure:
    - (i) that the stability of financial markets would not be put in jeopardy;
    - (ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.
4. In the case of a decision to publish a sanction or measure on an anonymous basis as referred to in paragraph 3(b), the publication of the relevant data may be postponed. Where a decision imposing an administrative sanction or remedial measure is subject to an appeal before the relevant judicial authorities, competent authorities shall also immediately add on their official website that information and any subsequent information on the outcome of such appeal. Any judicial decision annulling a decision imposing an administrative sanction or a remedial measure shall also be published.
5. The competent authorities shall ensure that any publication referred to in paragraphs 1 to 4 shall remain on their official website for at least five years after its publication.

Personal data contained in the publication shall only be kept on the official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules.

#### Article 60

##### Duty to submit information to EIOPA in relation to administrative sanctions and remedial measures

1. The competent authorities shall inform EIOPA of all administrative sanctions and other measures imposed but not published in accordance with Article 59(1).
2. The competent authorities shall provide EIOPA annually with aggregated information regarding all administrative sanctions and remedial measures imposed in accordance with Article 57.

EIOPA shall publish that information in an annual report.

3. Where the competent authority has disclosed an administrative sanction or other measure to the public, it shall at the same time report that fact to EIOPA.

## CHAPTER XI FINAL PROVISIONS

#### Article 61

##### Processing of personal data

With regard to the processing of personal data within the framework of this Regulation, PEPP providers and competent authorities shall carry out their tasks for the purpose of this Regulation in accordance with Regulation (EU) 2016/679, *and a Regulation on the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (Regulation on Privacy and Electronic Communications)* . With regard to the processing of personal data by EIOPA within the framework of this Regulation, EIOPA shall comply with Regulation (EC) No 45/2001.

## Article 62

### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 24(3), Article 26(3), Article 28(2), Article 32(7) and Article 39 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegation of powers referred to in Article 24(3), Article 26(3), Article 28(2), Article 32(7) and Article 39 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 24(3), Article 26(3), Article 28(2), Article 32(7) and Article 39 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or the Council.

## Article 63

### Evaluation and report

1. **Every** five years after the entry into force of this Regulation, the Commission shall carry out an evaluation of this Regulation and, and after consulting EIOPA, present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.

2. **█** The Report *shall cover all issues concerning the functioning of the Regulation, in particular the following:*
- (a) portability;*
  - (b) development of the compartments and partnerships;*
  - (c) the switching mechanism;*
  - (d) the uptake of the basic PEPP;*
  - (e) the complaints procedure;*
  - (f) the application throughout the Union;*
  - (g) the integration of ESG factors in the PEPP investment policy;*
  - (h) the 1 % cap as referred in Article 37(2).*
3. *The Commission shall set up a panel with relevant stakeholders to continuously monitor the development and implementation of the PEPP. That panel shall include at least EIOPA, the national supervisors, industry and consumer representatives and independent experts.*
- The secretariat of the panel shall be EIOPA.*

Article 64

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

*This Regulation shall apply 12 months after the publication in the Official Journal of the European Union of the delegated acts envisaged by the Regulation.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

*For the European Parliament  
The President*

*For the Council  
The President*