



PAN-EUROPEAN PERSONAL PENSION PRODUCT – PEPP

Updated Position

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European Association of Paritarian Institutions - AEIP

Brussels, 3 December 2018

The European Association of Paritarian Institutions – AEIP, founded in 1996, is a Brussels-based advocacy organization, representing Social Protection Institutions established and managed by employers and trade unions on a joint basis within the framework of collective agreements.

In the context of social protection, paritarism is a type of self-organization of social relationships which on the basis of equal negotiations, brings about agreements which are equally binding on both employers and employees. This kind of self-organization goes from the paritarism of negotiation to the paritarism of management and results in various types of agreements, from adhesion to a particular form of cover to the creation of a paritarian institution.

The Association has 20 Associate and Affiliate members - all leading large and medium-sized Social Protection Institutions, from 12 European countries, as well as 13 Task Force Members from 3 European countries. All AEIP members are not-for-profit organizations.

In particular, AEIP deals – through dedicated working groups – with EU coordinated pension schemes, pension funds, healthcare, unemployment and provident schemes, paid holiday and health & safety at work schemes. Complementary to their role as non-for-profit social protection providers, AEIP members are also long-term institutional investors.

AEIP represents its members' values and interests at the level of both European and international institutions.

For more information: www.aeip.net

Introductory remarks

Paritarian institutions of social protection play an important social role in the EU economy. They contribute to ensure adequacy for the beneficiaries of different social protection systems across Europe. The fact that paritarian institutions are jointly managed by social partners guarantees that the interests of all stakeholders are adequately reflected in collective agreements. Moreover, paritarian institutions of social protection are key institutional investors and contribute to fostering long-term investment and economic growth.

We would like to stress on the general principle that pension policy is the responsibility of Member States (MSs) and is subject to different regulatory and supervisory frameworks across the EU. Given such heterogeneity, it is key that in all upcoming initiatives at EU level with relevance to pension policy, the policy-makers will refrain from any action that might lead to discourage occupational pension provision. We stress on the need for follow up steps towards strengthening the multi-pillar approach and promotion of supplementary pension schemes, improving the effectiveness of the schemes already in place.

Background

AEIP welcomed the opportunity to provide its feedback throughout all the stages in the process of preparation of the European Commission's proposal. Given the most recent updates on the PEPP (i.e. compromise agreement of the European Council on 20 June 2018¹, the publication of the European Parliament's ECON Committee Report on 3 September 2018 and the commencement of trialogues), we would like to update and enrich the position of AEIP on the PEPP, which came out on April 2018. AEIP followed the process extensively since the initial stages of the process and provided its comments during EIOPA's Consultation in October 2015². In October 2016, AEIP commented on the feasibility of a potential EU policy framework to establish a European market for personal pensions as part of the last Public Consultation of the European Commission (EC)³.

AEIP extensively discussed and analyzed in its working groups the final proposal of the EC for a Regulation on a Pan-European Personal Pension Product (PEPP)⁴ and the proposal for a Recommendation on Tax Treatment of personal pension products⁵, published on 29 June 2017. Most recently, AEIP published its position on the PEPP on 17 April 2018⁶.

The proposal of the EC establishes the PEPP as a complementary voluntary scheme alongside national regimes and is stated to have as a general objective the realization of a new framework for savings that address currently existing gaps in availability and cross-border portability and barriers for cross-border

¹More information see [here](#) and [here](#).

² EIOPA Consultation on creation of a Standardized Pan- European Personal Pension product (PEPP). For more information, AEIP website, [here](#).

³ For more information, please see AEIP website, [here](#).

⁴ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a Pan-European Personal Pension Product (PEPP) COM/2017/0343 final - 2017/0143 (COD), available [here](#).

⁵ Recommendation on the tax treatment of personal pension products, including the Pan-European Personal Pension Product (PEPP) - C(2017) 4393 final, available [here](#).

⁶ Available [here](#).

activity for both providers and savers. The proposal comes in the context of the European Capital Markets Union (CMU), aiming to ensure higher liquidity and funds supply for long-term institutional investors.

Key points in the AEIP position

AEIP fully supports all efforts contributing to the overall goal of delivering adequate and sustainable pensions in the EU.

AEIP considers there is potential for the PEPP to improve supplementary retirement savings in those MSs where there is not an existing or not a well-developed personal pension system or there is only limited workplace pension coverage. We would like to stress that in our opinion, in countries where the market is already well developed and highly regulated, the introduction of the PEPP risks to damage the smooth functioning of the system, with potential negative consequences for the interests of consumers.

Considering the outlined steps towards the CMU, in the framework of which the PEPP is introduced, AEIP would like to stress that the efforts of the EU Institutions should *also* focus on further promoting and spreading occupational pensions and supporting the exchange of best practices in this respect. In AEIP's view, auto-enrollment and statutory models lead to wider coverage and higher saving rates towards pensions. Compared to 3rd pillars products based on a voluntary individual membership and sold on a retail basis, workplace occupational pensions have clear advantages:

- They are based on employment relationships and collective agreements whereby all stakeholders are concerned about the pension policy including investments;
- Risks could be shared collectively;
- Costs can be kept low due to economies of scale and non-existing marketing costs. Several dedicated pension fund service providers work with in-house teams for investments in private equity and infrastructure;
- Usually, they subscribe to a sustainable investment policy including high standards of governance and engagement;
- Usually, they operate in a context of fiduciary duty and freedom of investment;
- Imbedded in a balanced multi-pillar approach, they contribute to low poverty amongst elderly;
- Allows for more possibilities to channel investments into the European economy, supporting the jobs and growth agenda, which in principle is also one of the PEPP's objectives.

Taking these points into consideration, we believe that the strengthening of a multi-pillar approach to promote the increase of supplementary pension schemes may be better achieved by improving the effectiveness of the schemes already in place (1st pillar bis, occupational (2nd pillar) and personal (3rd pillar)), rather than focusing efforts for enriching the supply-side market with a new type of pension product.

We welcome the approach of the European Commission to introduce the PEPP as a principle-based framework legislation and we would like to highlight that the introduction of any new rules cannot by any means offer an opting-out nor contracting out opportunity to the national 1st and 2nd pillar pensions.

In this context, AEIP considers that the development of a large and competitive market for personal pensions should be undertaken only within an *overall* strategy at European-level, focused on delivering adequate and safe retirement income to pensioners.

Following the creating act of 18 December 2017, AEIP is convinced that the high level expert group on pensions -which includes also representatives of the social partners- could be the right place for a broad debate that takes into consideration the different pension pillars and brings forward a more holistic view of old age income, by focusing also on complementary pensions. In addition, the cooperation among stakeholders and the exchanges of good practices will play a key role in ensuring the success of the Capital Markets Union (CMU). Pension schemes can be seen as an important component of the CMU, as a means for channelling savings to long-term investments in the EU.

AEIP is ready to provide its expertise and input to such a debate.

Key points on the current framework for personal pension provision

In AEIP's opinion there are significant gaps in the existing framework for provision of personal pension products (PPPs) that remain unaddressed by the current PEPP proposal, contrary to the objective for establishing an effective single market for 'third pillar' personal pensions.

As reported in the 2015 Pension Adequacy report, 60% of employees in the EU do not have sufficient access to supplementary pensions. We think that the overall aim of the PEPP initiative should be to reduce this pension gap, while safeguarding the existing well-functioning pension systems. The introduction of a new standardized 3rd pillar product will not be sufficient to achieve this objective. We would like to stress that the uptake of financial products in the context of pensions depends on various factors, among others - the national institutional framework for pension provision, state of the economy, demographics and in particular, tax incentives. These factors differ from one country to another, making also the demand for 3rd pillar PPPs different in all MSs. It has to be also noted, that in some EU countries due to the high pension benefits provided by 1st and 2nd pillar schemes, there are no incentives for additional 3rd pillar savings. We do not consider that a cross-border service provision alone can incentivize individuals to top up current savings rate, especially considering the overall low rates of intra-EU mobility⁷ (3.7% of total EU working-age population as of 2016).

The low level of financial literacy and lack of information on future replacement rates contributes to weaken the interest of individuals in pension savings (especially among the young). In our view, the current EC PEPP Proposal does not sufficiently address these deficiencies.

An additional factor is the capacity of individuals to save for retirement. The most vulnerable groups on the EU labor market (precarious, unemployed, women, self-employed, disabled, etc.), who are also targeted in the EC initiative on Access to social protection, do not usually have the financial capacity to save for retirement, even if the products are backed by a favorable tax treatment. It is far from obvious

⁷ "There were a little fewer than 11.3 million EU-28 movers of working age (20-64) across the EU-28, making up 3.7% of the total population of working-age across the EU-28". 2016 Annual Report on intra-EU Labour Mobility, [here](#).

how the most vulnerable will benefit from the preference to 3rd pillar pension development, even if there are saving options with capital protection.

As a general point, we would like to point out that the current PEPP Proposal realizes a system in which PEPPs are submitted in a context of a very fragmented legal framework, composed on one side by “legislative core” represented by European rules and, on the other, by many different legal frameworks linked to MS and/or providers.

The PEPP could be a solution in a “virgin” market, but in some MSs, it could have negative effects over the national system as it could result in lower levels of members’ protection, particularly in terms of governance, disclosure, transparency and monitoring. Moreover, the reference to many legal frameworks will make it difficult to compare different PEPPs and PEPPs with national individual pension products.

3rd pillar Personal Pension Products (PPPs) are often seen as a way to optimize taxes and less as a pension savings product. If the aim is to save for an adequate pension two conditions are essential: a) start to save early and continue to do so and b) make sure you get an optimal return. Both elements are not that easy to realize in the context of 3rd pillar PPP.

Comments on the harmonized features in the EC Regulation Proposal and the EP’s ECON Committee Report

1. Application for authorization of a PEPP and the role of IORPs

IORPs have been included in the list of potential PEPP providers in the final EC proposal. In multiple Member States, restrictions apply to the products IORPs can offer and/or the clients they can serve. These restrictions can be closely linked to the design of national pension systems, and are recognized in Directive 2016/2341/EU (‘IORP II Directive’). Taking into consideration the differences in national legislations and in accordance with the IORP II Directive, we would like to point out that under the current conditions, in some MSs IORPs cannot offer PEPPs - as their playing field are limited by nature to 2nd pillar, whereas insurers and other market participants can play on both 2nd and 3rd pillars.

In order to reflect the additionality of PEPP to existing national pension systems, Member States that wish so, should be free to maintain restrictions that are in conformity with the IORP II Directive. We would like to stress on the need for a sufficient flexibility given to MSs with regard to making the decision on the inclusion or exclusion of IORPs as eligible PEPP providers.

MSs should have the option to exclude IORPs from the scope of the eligible PEPP providers in the cases where this does not match the national law and the specifics of the national pension systems.

If the MS allows the IORP as a PEPP provider, PEPP activities should be clearly separated from the other IORP activities.

For that reason, we agree with the framing of the Council’s compromise text of June 2018 regarding the authorization of PEPP, which defines the IORP PEPP provider as: “institutions for occupational retirement provision (“IORP”) authorised or registered in accordance with Directive 2016/2341/EU of the European Parliament and of the Council which, pursuant to national law, are authorised and supervised to provide also personal pension products. In that case, all assets and liabilities corresponding to PEPP provision

business shall be ring-fenced, without any possibility to transfer them to the other retirement provision business of the institution;”

On the contrary, AEIP does not agree with the framing of the ECON’s report regarding those IORPs which are authorised to provide the PEPP [art. 5 par. 1 (c)]. “institutions for occupational retirement provision registered or authorised in accordance with Directive 2016/2341/EU of the European Parliament and of the Council 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”.

Having also in mind the EP’s suggested provisions for a capital guarantee and an annuity payment, the reference to an IORP which cannot cover biometric risks itself and does not guarantee an investment performance or a certain level of retirement benefit, creates a risk for additional quantitative obligations and extra capital requirements for IORPs, which can be burdensome.

2. PEPPs Authorization

Following Article 4 of the Proposal of the EC, EIOPA will be in charge of authorizing providers to manufacture and distribute the PEPP. Article 6 foresees that the National Competent Authorities (NCAs) of the applicant “shall be consulted by EIOPA before taking a decision”.

AEIP strongly believes that authorization and likewise supervision should remain at national level and should be shared as part of the competences of the NCAs.

AEIP is convinced that NCAs should be the ones giving the authorization to providers for the creation or distribution of the PEPP. In that sense, AEIP agrees with the position of the Council, which overall supports the role of NCAs as the primary competent authority for deciding on the authorization of the PEPP, in accordance with the subsidiarity principle.

When referring to art. 5 par. 2 introductory part, the Council has stipulated that: “Financial undertakings listed in paragraph 1 shall submit the application for registration of a PEPP to their competent authorities”.

When it comes to the role of EIOPA, it’s important to strike a right balance. On the one hand, NCAs know their pension markets best. On the other hand, EIOPA should be a central actor in making the PEPP a true ‘European’ product. Some role for EIOPA, as regards authorizing providers and products, would be:

- In line with the idea of PEPP being part of a 2nd regime,
- Adequate consumer protection against ‘inferior’ providers and/or products,
- Practical (i.e. providers would only have to request for a license once).

3. Provisions on switching & portability

AEIP considers that the PEPP has to necessarily have a long enough time-horizon in order to ensure investing on the basis of a long-term perspective, thus supporting the goals of the CMU.

We would like to stress that switching between providers should only be allowed for a limited number of times and under specific conditions set at national-level.

The current provisions in the EC Proposal allowing for switching providers once every 5 years (art. 45 par. 2) could lead to additional costs for providers and consumers, due to the disinvestment in illiquid assets backing long-term liabilities. At the same time, it could disorientate PEPP users on the long-term character of such a product. Indeed, the PEPP should be a true long-term product, allowing providers to generate long-term liabilities and incentivizing consumers to save over a long period.

The ECON Report has departed from the 5 year's period of switching, stipulating in art. 45 par. 2 that: "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". This provision risks of weaken the long-term character of the product, while creating heterogeneity between the PEPP savers and departing from a pan-European level-playing field.

The final Regulation on the PEPP should ensure that there is sufficient balance between flexibility to switch providers and ensuring that providers can invest in long-term illiquid assets.

In addition, we consider that there should be more clarity and guidelines on the actual process in the case of switching between different types of financial institutions.

Finally, it is important to stress that costs should be kept as low as possible, either by establishing a cap or by setting up a valid information framework which allows PEPP users to understand the allocation of costs.

4. Decumulation phase

We support the EC (and EIOPA's for that matter) careful approach and the consideration for competency issues as stipulated in Article 51.

We appreciate that most of the PEPP conditions related to the decumulation phase will be determined at national level i.e. setting the retirement age, the link between reaching retirement age and the start of the decumulation phase, the minimum period of belonging to the PEPP scheme, etc.

We would like to make several points in the cases where the EC can provide further guidelines. We consider it necessary to synchronize the decumulation phase of the PEPP to the national retirement processes as the MSs and the EC have a common goal in ensuring a sustainable balance between time spent in employment and time spent in retirement for all MSs.

As an additional point, the sustainability and the adequacy of pensions call for no new early exit route. The start of the decumulation phase under the new PEPP provisions should not be lower or the withdrawal period shorter than the ones set in the different national legislations. In all cases, the final PEPP products must comply with national financial, consumer, social and labor laws and regulations in the context of decumulation.

As regards the choice of the form of out-payments for the decumulation phase, AEIP believes that the PEPP Regulation should leave for enough flexibility and choices given the different practices in the Member states.

Art 52 par. 2 in the report of the European Parliament refers to the forms of out-payments. In particular, it stipulates that: “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”.

AEIP does not agree with such a specific provision, especially given the difficulty to combine an annuity payment and a capital guarantee with an IORP which cannot cover biometric risks itself and do not guarantee an investment performance or a certain level of retirement benefit. This would mean that the PEPP savers would bear the risk, for which they would have to pay for its mitigation.

5. Tax regime of personal pensions

In the EC Recommendation on Member States’ application of tax rules but also in the EP’s ECON Committee report, the key points include the encouragement of MSs to grant the most favorable tax relief available at national level to PEPPs. MSs are also encouraged to exchange best practices on the taxation of personal pension products and to report on measures taken to introduce PEPPs at national level.

In order to avoid asymmetries, in countries where tax incentives are already in place to stimulate membership of personal pensions, the entitlement of EU personal pension schemes for tax advantages should be permitted only if they comply with legal and regulatory frameworks comparable with that of national personal pension schemes. MSs competence in taxation must be respected in all processes that relate to the PEPP distribution.

6. Investment rules

Article 33 of the EC Proposal, defining investment rules for PEPP providers makes no reference to sustainable investment or incorporation of Environmental, Social and Governance (ESG) factors in investment decisions.

As a positive development, the ESG factors are mentioned extensively in the report of the ECON Committee, both in its recital but also in art. 33 (aa). This reads as follows: “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”.

AEIP welcomes in principle the EP’s proposal for inclusion of ESG-factors and the inclusion of potential long-term impact of investment decision on ESG-factors. However, there should be limits on the number of investment options, since experience has shown that too many investment options creates a system which is not only confusing for users, but also risks to be inefficient, costly and non-transparent.

Finally, the costs related to the default investment option or basic PEPP should be kept as low as possible, given the need for adequate but also attractive returns to PEPP savers in the long-term.

7. Investment options

AEIP welcomes the approach of the EC to include a limitation of the number of available investment options. The approach to include up to 5 available alternatives represents a suitable option to help consumers in their choice while guaranteeing an appropriate level of flexibility for providers.

In terms of the design of the default investment option, in our opinion it is especially important to consider the national specificities of each country. In the case when a default investment option implies a guarantee, this should be in line with the national requirements of the member state that already provide a guarantee as a default option.

In our opinion, the provision in Article 45 as in the EC Proposal, allowing PEPP savers to opt for different investment option every 5 years should be subject to limitations to avoid penalizing individuals who may be affected by such a turnover. In other words, providers should be allowed to impose restrictions on flows of assets due to switching decision from individuals in order to ensure limited disruption and continuity of the investment strategy for individuals who have chosen to remain in the investment strategy for a long period. Likewise, having in mind that the Parliament's report stipulates (art. 36) that "the terms for modification of the investment option shall be listed in the PEPP contract", AEIP is convinced that the possibility for PEPP providers to provide restrictions should be explicit, in order to ensure the smooth functioning and uninterrupted continuity of investment strategies in a long-term perspective.

All in all, there should also be limits on the number of investment options, since experience has shown that too many investment options creates a system which is not only confusing for users, but also risks to be inefficient, costly and non-transparent.

8. Information to policyholders

In order to avoid information asymmetries, the disclosure rules for the PEPP should not be lower than the ones provided by national PPPs already in place. No matter the standardized format provided, we believe that the information should be tailored, layered, and comprehensible.

We find it especially important that PEPPs provision (including online) is contracted only on the basis of sound preliminary information and individual advice. Clear information on conditions on portability, on the pension result and on the expected replacement rate should be always provided to savers.

It should be noted that under the current market conditions, it is extremely difficult for citizens to evaluate longevity and investment risks and not least, the trustworthiness of PPP providers.

AEIP acknowledges the substantial work in the Parliament's report to create a detailed framework for pre-contractual information to PEPP savers (Section II).

9. Distribution channels

All distribution channels through durable media should remain available for pension providers and legislation should not hinder or incentivize one channel over others.

Selling products via the Internet should not in any case imply lower consumer protection nor lower transparency rules than the ones granted by national legislation for other channels of distribution.

The national legislation of each MS should be taken into consideration. Any new rules on personal pensions should not lead to less restrictive rules than those the national legislation already provided for.

Previous AEIP input

EIOPA's advice on the development of an EU Single Market for personal pension products (PPP) (April 2016)

AEIP answer to the EIOPA consultation on the creation of a standardized Pan-European Personal Pension Product (October 2015)

AEIP Position Paper April 2018, available [here](#)



AEIP Disclaimer

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AEIP represents its members' values and interests at the level of both European and International Institutions. In particular, AEIP - through its working groups - deal with EU coordinated pension schemes, pension funds, healthcare schemes, unemployment schemes, provident schemes and paid holiday schemes. The final goal of AEIP is to achieve pan-European paritarian schemes of social protection.

Owing to the quality of its members and to the delegation of powers conferred to its Board, AEIP aims at becoming the leading body for the promotion of balanced paritarian social protection systems in Europe. AEIP promotes and develops programs and orientations aiming at the sustainability of paritarian social protection systems at local level taking into account the national specificities aiming at ensuring social cohesion in Europe.

Based thereon, AEIP prepares recommendations, proposes local programs and influences European decisions to safeguard and promote the interests of its members. AEIP thinks ahead and anticipate modern paritarian social protection systems that take into account changing economic and societal pattern. It furthermore seeks to find a new balance between and across generations.