Position Paper

Insurance Europe's comments on Pan-European Personal Pension Products

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General remarks

Insurance Europe acknowledges that Europe faces a major challenge in ensuring adequate retirement income for its citizens. We believe that mutually reinforcing pension pillars will become increasingly important in responding to this challenge. Personal pensions, ie the "third pillar", play a key role in today's pension landscape. In the future, this role is likely to become even more important. With a long track record of tackling demographic challenges, life insurers are major providers of personal pension products that consumers can trust.

Insurance Europe welcomes the EC's goal to boost growth by strengthening and diversifying the financing of the EU economy through a Capital Markets Union. Insurance Europe likewise welcomes the discussion around a Pan-European Personal Pension Product (PEPP) as a way to potentially increase the volume of private pensions sold and better allocate funds towards long-term investments.

That being said, Europe's insurers have some reservations over the PEPP design and features outlined in EIOPA's recent "Advice to the EC on the development of an EU Single Market for personal pension products" (see EIOPA-CP-16/001). In particular, Insurance Europe sees that EIOPA's proposals do not give proper consideration to key product features that have proven instrumental in providing European citizens with tailored retirement solutions. Moreover, the Advice does not address the complex relations between a pan-European product and areas falling under national competence. The European insurance industry fears that a poorly designed PEPP will bring benefits neither to consumers nor to the EU economy.

PEPP must be a true, long-term pension product

For the PEPP to be a true long-term product, it must allow providers to generate long-term liabilities. This means that consumers should be incentivised to save for a long period, for instance with minimum investment periods.

In addition, PEPP providers should be subject to an appropriate prudential treatment that takes account of the product's long-term horizon and specific features. Insurance Europe believes that the "same risks, same rules" principle should apply to ensure a level-playing field between all providers. For PEPP with minimum return guarantees and/or biometric risk coverage, the applicable framework should be Solvency II. However, it

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should be ensured that insurers' ability to manage market volatility in the long-term is duly taken into account.

Decumulation is intrinsic to pension products

Given the fact that a pension product aims to provide a retirement income and that decumulation is, in many markets, an intrinsic aspect of pension products, the PEPP should consider aspects related to decumulation. National practices and rules on decumulation protection mechanisms, such as pay-out and annuities, and survivor's/death benefits should be duly considered.

Existing barriers cannot be ignored

A number of significant practical barriers, such as national taxation rules, social and labour law, contract law as well as general good rules, should not be underestimated. Insurance Europe regrets that EIOPA's analysis does not include advice on these issues, which are fundamental to the EU pension landscape. Therefore, the European insurance industry calls on the EC to run a thorough assessment of these aspects and indicate how these can be overcome.

Consumers must be duly protected

From a consumer protection perspective, Insurance Europe believes that consumers should be aware of the risks they bear and that the PEPP should entail an appropriate level of security for policyholders. For instance, protection against longevity risk should be available among the options offered to provide an income in retirement. Likewise, policyholders should be able to ask for coverage against biometric risk, taking account of national practices.

Insurers stand ready to further engage

Insurance Europe hopes to be able to engage with the EC's further work on this project. To this end, the annex provides more information on Insurance Europe's analysis of the PEPP, based on EIOPA's Advice.

*** See annex for Insurance Europe's analysis of EIOPA's Advice on PEPP ***

Annex – Insurance Europe's analysis of EIOPA's Advice on PEPP

This annex provides further details of Insurance Europe's analysis of PEPP based on EIOPA's Advice on the development of an EU Single Market for personal pension products (PPP) (see EIOPA-CP-16/001).

1. Second regime alongside national frameworks

EIOPA's proposals

EIOPA foresees a European – "second" – regime defining rules for the PEPP alongside the existing national frameworks for personal pension products. This framework would include:

- Standardised elements: information provision, default "core" investment option and limited investment choices
- Flexible elements: guarantees, caps on costs and charges as well as switching products and/or providers

Insurance Europe's position

The PEPP framework must be adaptable to demands and characteristics at national level such as product features (eg presence/absence of long-term guarantees or profit-sharing mechanisms, risk coverage, pay-out options and surrender options).

Personal pension products already being sold across Europe meet the heterogeneous needs of consumers, while respecting areas of national competence such as taxation, social and labour law as well as general good rules. Therefore, an excessively prescriptive European regime would fail to fit the current market and national frameworks and undermine the overall policy objective.

We call on the EC to carry out an in-depth legal analysis of the relation between a second regime and national rules (eg taxation, general good rules, contract law, social and labour law). This should be accompanied by an appropriate cost-benefit analysis that thoroughly assesses potential benefits and disadvantages for consumers. One cannot give an opinion on the PEPP's feasibility and attractiveness unless these fundamental aspects are clarified.

2. Eligible providers and prudential rules

EIOPA's proposals

EIOPA considers that "*current authorisation regimes should be used and that the provision of PEPP should be limited to those providers authorised under a relevant European Directive"* (p67).

Furthermore, EIOPA suggests "*when imposing capital requirements, the focus should lay on the product and not on the provider"* (p64). However, EIOPA does not propose any concrete solutions and merely suggests that *"More research has to be undertaken to understand if and where existing solvency requirements have to be touched (…) to develop a relevant framework for PEPP"* (p64).

Insurance Europe's position

PEPP providers should be subject to an appropriate prudential treatment taking into account PEPP's long-term horizon and specific features. The "*same risks, same rules*" principle should apply to ensure a level-playing field between all providers and adequate level of consumer protection. Therefore, we welcome EIOPA's objective "*to foster a level playing field [which] should not lead to lower prudential requirements or opportunities for regulatory arbitrage"* (p67).

For PEPP with minimum return guarantees and/or biometric risk coverage, the applicable framework should be Solvency II, however amended in such a way that insurers' ability to manage market volatility in the long-term is duly taken account of.

3. Minimum investment periods and long-term horizon

EIOPA's proposals

EIOPA argues that PEPP holders should be allowed to switch products and/or providers. This possibility could be subject to limitations "*to avoid an uneven alignment of short-term liabilities and long-term investments*" (p54). Consequently, EIOPA suggests that "*minimum holding periods should be possible"* (p54). It also suggests that providers should allocate transparent and clear costs for switching, since "*clearly allocated costs of switching are preferable to mandated free-of-charge switching"* (p54).

Insurance Europe's position

In the spirit of the Capital Markets Union, the PEPP must allow providers to generate long-term liabilities and an adequate return on investment, from the consumer's point of view. This means that consumers should be incentivised to save for a long period, ideally until retirement.

Therefore, we welcome EIOPA's recommendation in favour of minimum holding periods. These are fundamental to pension products. Indeed, the very nature of these products requires customers to save for a long time without being able to encash their pension pot before retirement..

PEPP providers should be allowed to design the number and length of minimum holding periods embedded in their products, as this is essentially a business decision. This information should be included in pre-contractual and ongoing information. Consumers should also receive information on the benefits of long-term saving, which would help to increase consumer awareness of the importance of saving for their retirement.

Furthermore, we agree with EIOPA that costs for switching need to be fair and transparent. We also share EIOPA's view that "*clearly allocated costs of switching are preferable to mandated free-of-charge switching"* (p54).

That being said, EIOPA's Advice does not provide sufficient detail on the following key issues:

- Automaticity of the procedure, eg it would be essential that the new provider is not forced to comply with the contractual rules of a PEPP offered by initial providers
- Responsibility for putting the old and new providers in contact
- Language applicable to the procedure
- Prevention of surrender when switching
- Provision of tax authorities with the relevant information
- Allocation of costs generated by switching

Without an adequate framework, switching could have a detrimental prudential impact on the financial management of the provider's company and its management costs. This would affect the provider's ability to invest and would result in higher premiums to be paid by PEPP holders.

4. Investment options

EIOPA's proposals

EIOPA argues that PEPP should be offered with a limited number of investment options, one of which should be a default "core" option. A de-risking strategy should be included in the default option at least, unless all investment options offer a minimum return guarantee.

Insurance Europe's position

A voluntary product with a default investment option is quite unusual. This feature is more common in second pillar pensions, where mandatory or quasi-mandatory enrolment can apply. Therefore, we favour a more flexible product structure with a low risk option, plus some alternative options. Furthermore, in member states in which mandatory duty of advice applies, a "default option" approach may not be viable, as consumers will always have to make an active choice.

Should a default investment option be envisaged, we nonetheless agree with EIOPA that it should include a de-risking element. We also approve of EIOPA's suggestion that providers should be able to develop their own de-risking strategy.

Consequently, the following investment strategies that already including a de-risking elements should be eligible as default investment options:

- Guarantees
- Long-term collective investment, where premiums are paid into a life fund and where the concept of smoothing is applied
- Life-cycling with de-risking

For investment options containing guarantees, PEPP providers should be free to offer different types and levels of guarantees.

Lastly, we oppose restricting the number of investment options that a PEPP provider could offer. For instance, a provider wishing to offer a PEPP with more investment options than allowed should not be forced to design two separate products. It also gives more knowledgeable consumers the opportunity to choose from more options.

5. Decumulation

EIOPA's proposals

EIOPA suggests that PEPP should only feature an accumulation phase, with "*no specification of decumulation options"* (p6).

Insurance Europe's position

A true pension product needs to feature decumulation aspects. Therefore, the PEPP must include provisions on decumulation.

PEPP should include life-long retirement income (eg annuities) as an option consumers can choose. This flexibility would fit countries that have no legal requirements for providers to offer a life-long pay-out.

6. Disclosure rules

EIOPA's proposals

EIOPA suggests using the PRIIPs Key Information Document and related technical standards as a starting point for PEPP disclosures during the pre-contractual phase.

Insurance Europe's position

The PRIIPs Regulation specifically excludes pension products from its scope. While Insurance Europe supports the overall objective of the PRIIPs Regulation, particularly with the need for greater transparency, the ESAs proposed draft final RTS are – at this stage - completely inappropriate for insurance-based investment products. In this context, we would not support this being applied to pensions on a pan-EU scale.

We acknowledge EIOPA is not willing to "copy and paste" the PRIIPs KID to the PEPP and wishes to build on some of its disclosure elements that might be suitable for pension products. However, Insurance Europe has strong concerns about using a document that remains to be formally adopted as a starting point for the PEPPs pre-contractual disclosures, especially when this document currently establishes approaches and methods of calculation of the main KID indicators (ie risk indicator, performance scenarios and cost indicator), which are not fit for purpose for insurance products. Consequently it is inadequate to seek to analyse, at this stage, whether any aspects of the PRIIPs KID is suitable for PEPP.

The characteristics of pension products should be adequately taken into account — as compared to investment products — as their purpose is to secure an income in retirement and/or a cover against longevity risk. Furthermore, pension products are inextricably linked to member states' social policy and taxation rules.

Therefore, they require specific and different information than that included in the PRIIPs KID.

If there was to be a PEPP KID, it should be designed to incentivise consumers to keep saving in the long-term, in line with the objective of the PEPP. It should therefore include information about:

- The pay-out phase, in particular about different possibilities for consumers
- Coverage against biometric risk such as protection of surviving dependents in case of death and protection in case of work incapacity
- Possible maximum loss of invested capital, eg whether the consumer can lose all invested capital
- General information about the tax treatment of the product (eg tax incentives granted at national level;; possible penalties applied in case of early withdrawal)
- Minimum investment periods, which should be reflected clearly and correctly throughout the document

Notwithstanding the above, there is a 4-year review clause in Article 33 of the PRIIPs Regulation, which establishes that, by 31 December 2018, the EC should assess whether pension products should be brought within the scope of the PRIIPs Regulation. In this context, it is therefore inappropriate to pre-empt this future review by already seeking to apply PRIIPs to PEPPs.

7. Distribution

EIOPA's proposals
EIOPA suggests allowing non-advised online sales of PEPP's default investment option.

Insurance Europe's position
We support the possibility of selling the PEPP via the Internet. However, all distribution channels and modes should be and remain possible for consumer convenience and freedom of choice. Legislation should not hinder or incentivise one channel or mode over another. Internet sales should be performed under the same transparency requirements of other "traditional" distribution channels in line with national practices to avoid distorting competition. Specific protection requirements should be established for cross-border Internet sales (eg accuracy of translation, possible tax consequences, language for claims, applicable insolvency guarantee scheme).

We welcome the fact that EIOPA recognises the possibility for the PEPP to be sold without advice, in line with national and EU rules. Even where sales are carried out without advice, all relevant information will still be provided to consumers in a clear and easily accessible manner.

We also maintain that consumers should have the possibility, should they so choose, to access some form of advice.

8. Protection against risks

EIOPA's proposals
EIOPA suggests that PEPP providers may want to have some flexibility in terms of product features, such as the possibility to offer protection against biometric risk.

Insurance Europe's position
We welcome EIOPA's opinion that providers should be given some flexibility in terms of product features.

We maintain that consumers should be allowed to ask for additional biometric risk coverage, which is a common practice in a number of markets for individual pensions. These requirements can be mandatory by law in some markets and are often fundamental components of long-term products offered by insurers.

Since pension products are generally defined by their objective (ie to provide an income in retirement), national rules often require that protection against longevity risk is made available to consumers.

Consequently, the protection against longevity risk should be considered as a main option for the PEPP as well, in line with existing national legislation.

In addition, PEPP providers offering biometric risk coverage should be subject to an appropriate prudential treatment taking account of PEPP's long-term horizon and pension features. The "same risks, same rules" principle should apply to ensure a level-playing field between all providers.

For biometric risk coverage, the applicable framework should be Solvency II, however amended in such a way that insurers' ability to manage market volatility in the long-term is duly taken account of.

9. Costs and charges

EIOPA's proposals
EIOPA suggests allowing member states to introduce caps on costs and charges, in particular for the default investment option.

Insurance Europe's position
The PEPP's costs and charges should not be capped, even for the default investment option. Rather, PEPP providers should be free to compete in this area. Consumers have to be provided with clear and concise information as to the costs and charges of their products.

10. Authorisation process

EIOPA's proposals
EIOPA considers that "*current authorisation regimes should be used and that the provision of PEPP should be limited to those providers authorised under a relevant European Directive*" (p67).

Insurance Europe's position
We agree with EIOPA that an additional, stand-alone authorisation process is unnecessary, especially for institutions falling under existing EU legislation such as Solvency II.

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Insurance Europe is the European insurance and reinsurance federation. Through its 34 member bodies — the national insurance associations — Insurance Europe represents all types of insurance and reinsurance undertakings, eg pan-European companies, monoliners, mutuals and SMEs. Insurance Europe, which is based in Brussels, represents undertakings that account for around 95% of total European premium income. Insurance makes a major contribution to Europe's economic growth and development. European insurers generate premium income of almost €1 170bn, employ over one million people and invest nearly €9 900bn in the economy.