aba Arbeitsgemeinschaft für
betriebliche Altersversorgung e.V.

aba Position Paper:
Pension Policy in the Context of the Capital Markets Union

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aba Arbeitsgemeinschaft für betriebliche Altersversorgung e.V. is the German association representing all matters concerning occupational pensions in the private and public sector. Among our members are corporate sponsors of pension schemes, IORPs, actuaries and consulting firms, employer associations and unions, as well as insurance companies, banks and investment managers. According to our statutes, our mission is to represent existing schemes as well as to expand coverage of occupational pensions independent of vehicle. We are a member of the European Association PensionsEurope.

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Main points

In preparation of this EU legislative period, different reports on the further development of the Capital Markets Union (CMU) have been published, to which the European institutions and associations have positioned themselves, including the European association for occupational pensions [PensionsEurope](). Many of these ideas and proposals also envisage a role of second and third pillar pensions, in particular the provision of long-term savings and investment products.

While we are in no way opposed to the further development of the CMU, we hold that the primarily social function of funded pensions may not be thwarted in order to achieve this political goal. Pension policy rightly remains a national competence and Member States (MS) have over time developed extensive legal frameworks encompassing in particular social, labor and tax law on funded pension that fit the respective national context. Hence, pension policy initiatives at EU level should primarily aim at identifying common goals (see European Pillar of Social Rights) and fostering the exchange of experience and best practices between MS instead of trying to find one-size-fits-all solutions. The lack of success of PEPP indicates that there is neither supply nor demand for products developed at EU level.

Zusammenfassung

In Vorbereitung auf die aktuelle EU Legislaturperiode wurden verschiedene Berichte zur Weiterentwicklung der Kapitalmarktunion (KMU) veröffentlicht und die europäischen Institutionen und Verbände haben sich dazu positioniert, darunter auch der europäische Verband der betrieblichen Altersversorgung PensionsEurope. Viele der vorgetragenen Ideen und Vorschläge sehen auch eine Rolle für die kapitalgedeckte Altersversorgung der zweiten und dritten Säule vor, speziell die Schaffung langfristiger Spar- und Investmentprodukte.

Wir unterstützen grundsätzlich die Weiterentwicklung der KMU, gleichzeitig machen wir jedoch darauf aufmerksam, dass die primär soziale Funktion kapitalgedeckter Altersvorsorge nicht diesem politischen Ziel untergeordnet werden darf. Rentenpolitik ist und bleibt nationale Kompetenz und die Mitgliedstaaten haben im Laufe der Zeit umfassende, an die nationalen Gegebenheiten angepasste rechtliche Rahmenwerke (insbesondere im Sozial-, Arbeits- und Steuerrecht) entwickelt. Daher sollten rentenpolitische Initiativen auf EU-Ebene primär auf gemeinsame Zielsetzungen (siehe Europäische Säule sozialer Rechte) und den Erfahrungsaustausch zwischen den Mitgliedstaaten abzielen, anstatt Einheitslösungen zu finden. Der Misserfolg beim EU-Altersvorsorgeprodukt PEPP lässt weder Angebot noch Nachfrage für auf EU-Ebene entwickelte Produkte erkennen.

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General remarks

aba supports the deepening of the CMU as we acknowledge that it is of great importance to the further economic development of the EU and its MS. A further development of the CMU is also in the interest of institutions for occupational retirement provision (IORPs), as it would provide them access to an even more integrated capital market with the potential for significant growth and hence higher returns on their investments. At the same time, as institutional investors, IORPs are aware that in the process of deepening the CMU, they also play a role by supplying the EU economy with capital.

However, it has to be kept in mind that first and foremost, pension policy is social policy. This, of course, also applies to occupational pensions: The goal of occupational pension schemes is to provide their members and beneficiaries with an adequate and cost-effective (supplementary) old-age income. Investors from the pension sector use the capital market as a means to diversify their assets and secure the intended returns. Hence, the investments necessary to deepen the CMU can only be made if, on the one hand, there is an adequate legal and prudential framework and, on the other hand, expected profits are sufficiently high so that the interest of the members and beneficiaries in receiving a secure and adequate occupational pension do not conflict with such an investment allocation.

While, as stated above, we support the idea of further removing obstacles to the free movement of capital within the EU, we stress that this principal social objective of occupational pensions must not be subordinated to the political desire to deepen the CMU.

MS should work on pension issues both individually and jointly at EU level from a social policy perspective. Within the European Commission, DG EMPL is rightfully responsible for pension policy and has therefore to be included into the discussion already at the very beginning. Hence, we stress that any initiatives initiated at EU-level that affect (occupational) pensions must be closely coordinated with the Member States and DG EMPL.

- ➔ The deepening of the CMU is of great importance to the EU and its MS. However, IORPs can only contribute to this goal if they can continue to provide their members and beneficiaries with an adequate and reliable retirement income.

Statement of the Eurogroup: Future of Capital Markets Union

We support any efforts at EU level to encourage the exchange of best practices among MS regarding efforts to increase participation in and contributions to occupational pension plans (see e. g. our comments to “pension tracking systems” below). The according exchange between MS – building on the work carried out by the Pension Forum and the High Level group on Pensions—can be supported by an expert group on pensions. In other words, we hold that “EU level initiatives on pension saving options or advice”, that were recommended by the ECB in March should primarily focus on the exchange of information and best practices among MS on how to increase supplementary income from funded pensions for EU citizens.

However, we are somewhat more reserved regarding the proposed further work on PEPP and the development of “attractive cost-effective and simple cross-border investment/savings products for retail investors”, as we hold that in the majority of MS, there is no lack of investment or savings products that are tailored to the respective national framework (see our reasoning in the section below).

- ➔ MS retain the competence on pension policy. Respective initiatives at EU level should primarily focus on improving the exchange of information and best practices between the MS.

Development of an "auto-enrollment long-term savings product" (Letta-Report)

The Letta Report suggests the creation of a long-term savings product designed at EU level which might include auto-enrollment and could be organized via employers, to which the MS are supposed to provide tax incentives. The report does not address the payout phase. We believe that before any new long-term investment/savings products are designed at EU-level, the reasons for the lack of success of PEPP (according to EIOPA's central register, as of July 2024, there is only one provider of PEPP offering this product in four MS) should be thoroughly analyzed. This obviously also applies to a simplification and upgrade of the PEPP, to which the Letta Report refers. RESAVER should not serve as an example of best practice either. The number of mobile researchers building up second pillar pensions has not increased significantly as a result of its introduction. This is because MS with (often mandatory) provisions due to collective agreements will not provide different products in different setups or even cannibalize their existing frameworks for pensions, whereas MS or respectively research employers without this kind of provisions still do not invest in it.

While we acknowledge that auto-enrollment is a viable instrument to increase both coverage and contributions, we stress that given the different setups of the national pension systems, decisions on auto-enrollment should be taken at MS level – especially given that in some MS, there is already compulsory participation in occupational pension schemes i. a. via collective agreements. Furthermore, we do not see a legal basis in the EU Treaties for according legislation. Even if, in spite of these concerns, auto-enrollment should be decided upon at EU level, MS would need a substantial degree of leeway for the implementation, e.g. regarding whether auto-enrollment should be applied to occupational pension schemes (2nd pillar) or personal pension products (3rd pillar), to which groups of the working population it should apply and the design of the tax and social security framework.

We reject the idea of making third-pillar products more widely available by transferring the 'free' organisation and collection of private pension contributions to employers. In addition to the associated costs, there are considerable risks for the employer - without any corresponding added value. A double worsening is to be expected if an occupational pension scheme is already in place, as the employees can only spend their money once and the employer is confronted with additional burdens.

Generally, we point out that auto-enrollment does not automatically increase citizens´ savings but might instead only redirect their savings from one vehicle to another – especially in the current environment of shrinking disposable incomes. Hence, the proposed auto-enrollment into the investment/savings products mentioned above might actually have detrimental effects if, as a result of auto-enrollment, employees stop or do not even start contributing to their occupational pension plans, which can be expected to be very cost-efficient and often also include employer contributions. Furthermore, the product recommended by Letta seems to be focusing solely on the contribution phase, while the payout phase appears to be neglected. We hold that especially given the EU´s changing demographic structure and the stress on public PAYG-systems that goes along with it, in order to avoid the risk of people outliving their savings, the focus should be on promoting (collective) pension products/schemes, i.e. those that cover biometric risks. Generally, we hold that tax incentives in the contribution phase are by themselves not sufficient to encourage the uptake of funded pensions – it is rather the entire legal framework encompassing them, e.g. also social security contributions and the payout phase, that can provide according incentives.

In that sense, we also believe that recommendation 5 ("Members States should consider how domestic tax policy can better incentivise retail investors to participate in and benefit from capital markets.") of ESMA´s position paper on "Building more effective and attractive capital markets in the EU", is somewhat inappropriate, especially given that ESMA is a supervisory authority. We hold that in MS in which the statutory pension has been weakened in order to account for demographic changes (e. g. Germany), tax incentives should be reserved for pension schemes / products that cover biometric risks, while pure savings products should not receive a comparable subsidization.

Next to the statutory pension system, most MS have developed second and third pillar pension systems with a specific legal framework that is adapted to the national context. We doubt that in the majority of MS, there is a general lack of savings and investment products. In our opinion, the lack of success of PEPP indicates that there is neither a supply nor a demand for an EU-product. Instead of developing a new product at EU-level whose primary goal is to deepen the CMU (and which, at least according to our expectation and given the experience with PEPP, are likely to fail), the focus should be on further developing and potentially connecting what already exists (as it is suggested in the Noyer-Report). The competence of the MS regarding pension policy and the heterogenous pension landscapes across the EU need to be respected.

- ➔ Due to the different design of pension systems in the MS and the interconnectivity between the individual pension pillars, decisions on auto-enrollment and the criteria for subsidization, should be taken at national level.
- ➔ **We reject the idea of transferring the organisation of third pillar savings products and the collection of contributions "for free" to employers.**

Funded pensions in the context of national social, labor and tax law

Demanding a similar level of protection for policyholders and beneficiaries, wherever they are based in the EU, as does EIOPA in a recent blog post on the CMU, is not expedient regarding occupational pensions, as they are always embedded in a national pension framework. Hence, occupational pensions are always closely linked to national social, labor and tax law and their role differs from MS to MS, who retain competence in these areas. Streamlining national legislation in these areas is therefore neither purposeful nor desirable. For these reasons, we are also sceptical regarding the development of a "Pan-European Occupational Pension Product (PEOP)", on which the OPSG has published a discussion paper in May 2024. However, we think that the idea of a decentralized approach, as it is outlined in the Noyer Report, i. e. granting a European label to existing national schemes whose providers (on a voluntary basis) find a common denominator to enable cross-border portability to their beneficiaries, is worth pursuing. This requires, of course, that the MS involved find an agreement on the schemes' tax treatment.

- ➔ Due to the diverse pension landscape in the MS we see no one-size-fits all solutions for funded pensions.

Pension tracking systems

We believe that PTSs, given that they are as comprehensive as possible, are an **effective means for employees to inform themselves about their pension entitlements** in all „pillars“ and potentially identify the need for additional savings. In Germany, the national PTS "Digitale Rentenübersicht" covering all three pillars is currently being implemented. We also support the development of the "European Tracking Service" (ETS), which is currently in the rollout phase and builds on the principle of connecting the existing national PTSs of the MS, in the mid to long term. In this regard, we welcome any efforts at EU level that aim at continuing to foster the exchange between national administrations that have set up, are currently implementing and/or are planning to establish a PTS, as is currently already happening via the ETS Association.

Given the European Commission´s proposal on a Regulation on a Framework for Financial Data Access (FIDA), which is currently in the legislative process, we would like to point out that PTSs and the ETS are better suited to provide EU citizens an overview of their pension entitlements than any FIDA-related service, since Tracking Systems are in the vast majority of cases more complete (given that they contain information on the first pillar and often also the third pillar), more economical than FIDA (as the high technical effort involved in pension data is not offset by an appropriate added value) and technologically sufficient due to export options and further use by advisors and service providers of the customer´s choice.

- ➔ The EU should continue to provide assistance to MS that set up a PTS through financial support and the exchange of information and best practices.

Pension dashboard

We are somewhat more reserved regarding the proposed creation of a pension dashboard to follow the evolution of pension coverage across the MS by European institutions or authorities as for example EIOPA. While such a tool may be an adequate instrument to track the coverage of supplementary pensions, we doubt whether EIOPA is the correct European entity to be in charge, as it does not have a mandate for the first pillar and, at least in some MS, not for the entire second and third pillar. Instead, DG EMPL and DG FISMA should cooperate with the MS, in case it is decided that such a dashboard is to be constructed. As stated by the Eurogroup, a pension dashboard should serve to follow the evolution of pension coverage across MS and to report developments back to the MS. Against this backdrop, we find it surprising that EIOPA has – without an according political mandate – developed a pension dashboard to promote its own agenda.

As the current reporting requirements for IORPs are already very demanding, we stress that the data contained in the dashboard should be gathered from already existing reporting requirements and channels. It is of utmost importance that the potential establishment of a pensions dashboard does not result in additional reporting requirements for IORPs and sponsoring companies.

- ➔ Pension policy is a national competence, hence decisions should be taken by the MS. At EU level, DG EMPL and DG FISMA should help the MS to achieve common goals in the area “old age income and pensions”.

In summary, we hold that the social protection that funded pensions provide to their members and beneficiaries should not be compromised in order to advance the Capital Markets Union. Member States should agree on common goals at EU level and coordinate their according activities as part of the European Semester, the EU's annual economic and social policy coordination procedure. However, given the different national legal frameworks in the Union, the policies to achieve these goals have to be designed and implemented at the national level. We do not believe that there is a need or demand for new pension, investment or savings products designed at EU level.

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