

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
Name of Company:	Arbeitsgemeinschaft für betriebliche Altersversorgung e.V.	
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Reference	Comment	
General Comment	<p>Introduction</p> <p>As in our responses to the previous two consultations, we would first like to raise a number of general points before responding to the individual questions.</p> <p>First of all, we are still not clear on what exactly constitutes a PPP or a PEPP. While EIOPA has identified some standardised and some flexible product features of the latter, the particularities still remain unclear. We therefore ask in the first section: What is a PPP/PEPP?</p>	

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

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

Looking at the problems the PEPP is designed to address, we think that there are other – and better – solutions available: **Funded pensions – focus on occupational pensions.**

For any type of voluntary pension provision, taxation is a key lever when encouraging individuals to take up a pension plan and/or employers to offer a plan to their employees: **The crux of the matter – taxation.**

Finally, we would like to go back to our previous consultation response and see whether the key questions we asked in October 2015 have been answered; our general remarks close with the observation that the evidence annex (Annex III) does not contain data of what is considered the biggest market for PPPs (Germany).

What is a PPP/PEPP?

In our previous consultation responses we have criticised the aggregation of very different products with very different functions under the term PPP. On this backdrop, it could be considered positive that EIOPA has presented a model with some standardised (information provision, default “core” investment option and limited investment choices) and some flexible features (guarantees, cap on costs and charges and the possibility of switching and potentially decumulation, see p. 80).

However, from our perspective there are two problems with this approach – and solving one of the problems would aggravate the other. On the one hand, a model with standardised and flexible elements seems too vague to work with. The impact assessment for example is not very thorough, which is partly due to the difficulties of assessing the impacts of a product which is only roughly defined.

On the other hand, narrowing down the definition would mean that Member States will have less flexibility to tailor the PEPP according to the needs of their overall retirement systems. The purpose of the PEPP should be to close the gap between the retirement need and what is

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

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

provided by the 1st, 2nd and 3rd pillar so far. This is highly dependent on national systems. A higher standardization of the PEPP will decrease its ability to close such a gap. The standardised features of the PEPP look from the German perspective more like a savings plan than a pension product especially due to the fact that EIOPA is still completely focussing on the accumulation phase.

Overall, we therefore think that the PEPP faces severe challenges, if not insurmountable barriers: the definition is too vague to create a truly pan-European Product (or even just to produce a convincing Impact Assessment), but narrowing it down could limit the usefulness of the product in the individual Member States. Since it is not possible to solve both of these problems at the same time, we do not see a sensible way forward for this project.

Maybe because of these challenges, the focus in the consultation paper is much more on the problems a PEPP should address and on the benefits hoped for than on clear characteristics. In Section 2 of the Impact Assessment, EIOPA identifies the following advantages and challenges:

- “addressing principal agent conflicts and information asymmetry, as shortcomings of an inefficient market, by introducing disclosure requirements, improving product comparability and good governance;
- efficiency gains through economies of scale and opportunities for risk diversification as well as for competition and innovation;
- facilitating cross-border activities and reducing obstacles to further the Single Market;
- opportunity for multi-pillar diversification” (p. 78)

From our perspective, the challenges can be met and the advantages can be realised by occupational pensions (see “Section 2 - Problem definition” for our detailed comments on the advantages and challenges identified by EIOPA) – it is not clear to us why EIOPA is seeking to introduce a new product rather than strengthening an existing – and in many Member States successful – strategy. The introduction of such a new product could lead to an increasing fragmentation of the Europe-wide systems of retirement provision.

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

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

Funded pensions: focus on occupational pensions

Demographic developments paired with cuts in state pension provision create the need to supplement state retirement income by private pensions. The first choice in this regard are occupational pensions. Because of the involvement of employers, occupational pensions can be organised on a collective level. Occupational pensions are therefore good value for money, particularly for those on low incomes. They balance security against returns and provide a life-long pension for their beneficiaries, who share the risks around death and invalidity. In contrast to personal pensions, occupational pensions can therefore address these risks without undertaking an individual assessment. In contrast to personal pension products, occupational pensions are mainly governed and protected by social and labour law. Furthermore, occupational pensions also provide for a high level of transparency for employers as well as for the employees especially due to the principle of co-determination.

These advantages should be used. Occupational pensions should be strengthened further in all 28 Member States, thus ultimately preventing old age poverty while at the same time relieving public finances. Existing systems should be further developed and enhanced to reach their potential before additional systems are established and supported.

As also pointed out in response to Question 1, we very much agree with the analysis of occupational DC pensions („in the area of occupational DC pensions, many of the cognitive and behavioural traits outlined above are being addressed by taking some of the complexity in decision-making away from individuals.“ p. 14) and would like to emphasise that this is the case for most occupational pensions, for DB even more so than DC. By improving governance standards, EIOPA wants to transfer these benefits to PPP. Crucially, however, occupational pensions do currently not only have different governance standards compared to PPP, they also fall under national social and labour law. This means that the interests of members and beneficiaries are protected to a high and specific level which cannot be met by mere „consumer protection“.

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

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

Footnote 28 states: „Due to both the voluntary and contract-based nature of third pillar PPPs, PPP holders have to deal with complexity by themselves relative to occupational DC members, unless they have "contracted out" the latter to financial advisors notably at the point of purchase, albeit at a cost.“ As recognised, the introduction of a financial advisor adds another cost component – why not stick to occupational pensions where this is not necessary?

While we welcome that EIOPA supports the further development of IORPs¹, it is wrong to focus on cross-border activity, because it in general plays a minor role for IORPs. More than ten years after the implementation of the IORP Directive in the Member States, there are only 76 cross-border operating IORPs.² Sponsors and social partners apparently prefer local or national pension providers. As shown above, occupational pensions have many more advantages than their potential to be delivered across borders.

Overall, we call on EIOPA to recognise and promote the advantages occupational pensions have in many countries and support their further development so that as many people as possible can benefit from good workplace pensions across the EU. We do not believe that the introduction of a 2nd Regime would solve any problems which could not be addressed by the existing system.

The crux of the matter: taxation

Even if individuals are not always rational actors (as also shown in EIOPA’s analysis), many respond to a straightforward financial incentive such as EET taxation and state contributions/subsidies (Riester incentive). Taxation is therefore the crux of the matter both for

¹ „EIOPA fully supports the further development of occupational pensions and the activities of IORPs, in particular with regard to reaping the benefits of economies of scale relating to cross-border activities.“ (p. 8)

² [2015 Market development report on occupational pensions and cross-border IORPs](#)

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

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

occupational and personal pensions – a PEPP will only be truly successful if it is supported by attractive tax rules. We very much welcome that EIOPA recognises the problem³ in this consultation more than it has in previous ones.

However, EIOPA does not propose anything to solve the issues around taxation – and rightly so. They conclude that the “most significant barrier [to cross-border business] is taxation” (p. 62), however, according to EIOPA, a PEPP would be free from “many of the legal obstacles” (p. 62). In addition, EIOPA states that “further research is needed to solve taxation issues” (also p. 62). At the same time, EIOPA recognises that the competence for taxation lies with the Member States.⁴

In this context we would also like to make the following points:

- “More and more countries are considering to abolish tax incentives related to PPP” (p. 62) - We are not aware of any such discussions – which Member States are currently discussing cutting back on tax incentives for PPPs?
- “On the other hand, harmonisation (including taxation) would help to solve tax hurdles currently blocking providers to operate cross-border.” (p. 63) - This sentence assumes that tax incentives are there to stop foreign providers entering the national market. However, the requirements for EET taxation in Germany take insights from behavioural economics into account: the tax incentive is only granted if the pension pot is paid out as a life-long benefit. This prevents individuals from accessing their pension pot before retirement and also from taking it out as a lump sum. They are not intended to discourage foreign providers from offering their products.
- An equal tax treatment for products with the same quality requirements in Germany is

³ We welcome that the Section “Tax impediments for cross-border provision” (p. 59-61) recognizes the importance of tax issues for cross-border provision. EIOPA rightly recognises that taxes are “covered by national laws and bilateral tax treaties. Pensions are taxed very differently across the EU and the tax treatment is often linked to specific characteristics of eligible products, such as holding period until tax-relevant retirement age or specific investment strategies. This already raises various challenges to the creation of a Single Market for PPPs, as products need to exhibit different features to receive beneficial tax treatment in different Member States.” (p. 59)

⁴ „Many stakeholders stressed that the main barrier to cross-border activities - taxation - cannot be resolved at European level.“ (p. 77)

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

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

given. For example, the Riester pension products can be offered in Germany by providers from other EU Member States, too ([§ 1\(2\) AltZertG](#)).

Key questions remain unanswered

In our response to the previous consultation, we raised a number of questions (bullet points below, in quotations marks). As outlined below (comments following the arrows), from our perspective not all of them have been addressed sufficiently in the current consultation paper:

- “Is there really a need for a PEPP? If so, in which Member States? Without a clearly identified need, we see no reason for introducing a new regime! What are the existing problems that should be solved with a PEPP? Where are the problems? The connection with "1st pillar bis" is unclear to us.”
 - We agree with EIOPA’s analysis that the Member States i.a. face the challenges of an aging economy, keeping public finances sustainable, ensuring an adequate retirement income for those longer working and fostering long-term investment (p. 5). We also recognise the analysis under the heading “Economic rationale for an efficient Single Market for personal pensions”. According to EIOPA, the market for personal pensions is imperfect, there is a lack of equality between demand and supply and asymmetric information issues exist between providers and consumers. EIOPA wants to meet these challenges by pursuing two strategic objectives: transparency, simplicity, accessibility and fairness across the internal market for consumers as well as the development of sound and prudent regulations supporting the internal market (p. 12).

Overall, we would like to question whether the introduction of a PEPP would help to achieve the stated objectives. In addition, we partly disagree with the problem analysis: Regarding the “lack of equality of supply and demand”, EIOPA states that this could mean “that the market is unable to adequately provide the supply for

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

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

all EU consumers that have a demand“ (p. 11). We are not aware of any survey showing that individuals did not take out a personal pension because there was a lack of supply. With large financial service providers already offering products in many European countries, this seems a very unlikely scenario to us. If any policy conclusions are drawn from this, it should be substantiated by empirical evidence. Similarly, we would like to question that „wider provider choice“ (also p. 11) would encourage more individuals to make provisions for their retirement. As is recognised by EIOPA in the context of investment options, more choice is not always a good thing. We wonder why EIOPA is recognising this and limiting investment choices, while at the same time promoting wider provider choice.

- According to Annex IV, 1st pillar bis plans are no longer included in the discussions around PPP and PEPP. We welcome the clarification (p. 95).
- “What added value does PEPP - a standardized EU product modified at the level of all 28 Member States - have for savers, providers and Member States?”
 - According to EIOPA, the development of PPPs at the European level could lead to „efficiency gains through economies of scale and opportunities for risk diversification as well as for competition and innovation; high levels of cross-border activities and reduced obstacles to further the Single Market; opportunities for higher replacement rates and for multi-pillar diversification“ (p. 5). From our perspective, most of these advantages are or could be achieved in the current system: occupational pensions allow for efficiency gains through economies of scale and opportunities for risk diversification; e.g. German Riester-products can be offered by providers from other EU Member States (see below); individuals already can spread their retirement provision across three pillars, with higher contributions leading to higher replacement rates. Competition is not a goal in itself; and innovation is unlikely to be fostered by introducing new regulation.

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

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

- “What constitutes “pensions” (in particular, are biometric risks included; so far no EU consensus could be reached; see definition of “retirement benefits” in Article 6 pt. c IORP Directive)? What are the differences between a PEPP and a “normal” financial product? Who can and should define this?”
 - See “What is a PPP?” above

- “How should the PEPP be taxed? An equal tax treatment for different quality requirements (3.6.11.) may not appear justifiable by all Member States in the same way. An equal tax treatment for products with the same quality requirements in Germany is given. For example, the Riester pension products can be offered in Germany by providers from other EU Member States, too (§ 1(2) AltZertG).”
 - See the “The crux of the matter: taxation” above

Data on the biggest PPP market should be included

Footnote 83 states that Germany “could be seen as potentially the biggest PPP market in Europe”. However, German data is not included in the graphs, and generally the evidence from Germany is rather thin. Why isn’t additional data included? See e.g. the figures on Riester pension contracts – over 16.3 million people have pension saving contracts and benefit from “Riester incentives” ([BMAS figures](#)). We think that the inclusion of data from Germany would change the picture presented in the evidence Annex III significantly. For example according to the Figure “Assets split by product type), the vast majority of assets of PPPs (79%) is held in pure DC schemes. Adding the German assets (which do have a guarantee) would change the picture significantly.

Q1
Would PPPs benefit from

First of all, we note that the proposed governance standards are the same criteria as in the Solvency II and proposed IORP II Directives.

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

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

harmonisation of provider governance standards? What should be the basis for provider governance standards for PPPs? Do you agree with EIOPA's proposals?

[Draft advice on governance for PPP – p. 23-25]

We doubt that PPPs would benefit from harmonisation of provider governance standards and would like to make the following points:

- At EU-level, we consider that the rules of Solvency II, MiFID, UCITS, CRD IV and the IORP Directive already cover all relevant pension providers and providers offering pension-like products. These EU rules have been implemented by the Member States into their national legislative framework. Harmonising governance standards within these different legal documents – which then would have to be transposed into national law – would be a lengthy process.
- Efforts should focus on closing the gaps in provider regulation to cover providers who currently are not regulated rather than on harmonising existing legislation.
- We agree with the analysis of occupational DC pensions („in the area of occupational DC pensions, many of the cognitive and behavioural traits outlined above are being addressed by taking some of the complexity in decision-making away from individuals.“, p. 14) and would like to emphasise that this is the case for most occupational pensions, for DB even more so than DC. By improving governance standards, EIOPA wants to transfer these benefits to PPP. Crucially, however, occupational pensions do currently not only have different governance structures compared to PPP, they also fall under national social and labour law. This means that the interests of members and beneficiaries are protected to a level which cannot be met by mere „consumer protection“. Copying governance standards might be a way to improve PPP, but the advantages of occupational pensions are rooted in much more than only in good governance.
- If we understand the proposals correctly, any new regulation would be on top of existing regulation. If this means that providers on the one hand will have to ring-fence any new PPP business, as well as comply with additional provider governance standards, providers might decide not to offer new PPPs at all in order to avoid the additional regulation. However, the providers’ decision of course also depends on the attractiveness on the tax framework for these products.

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
<p>Q2</p> <p>Would PPPs benefit from harmonisation of product governance rules? What should be the basis for product governance rules for PPPs? Do you agree with EIOPA's proposals?</p>	<p>Overall, the aba calls for a system in which providers of personal pensions are regulated (as is currently the case) and argues against additional product regulation at EU level. As EIOPA correctly points out, “Different governance requirements for different types of providers could also be considered as appropriate in view of the different risks faced by these providers. Firms such as a bank or an insurance company as PPP providers can usually be expected to have more developed processes and greater own resources than, e.g., single fund managers, but the variety of their other activities may also raise challenges that need addressing to avoid contagion impacts for PPP holders.” (p. 17)</p> <p>EIOPA presents five benefits of product regulation in the context of personal pensions (p. 49). The majority of the problems additional product regulation is intended to address (asymmetric information, behavioural factors, economies of scale, comparison of products) does not exist or are not important in German occupational pensions. The structure of German occupational pensions – with the relationship between the beneficiary, the employer and the IORP at its heart – addresses and solves these issues. We therefore argue to rely on tried and tested ways of providing an old age pension, rather than introducing a new product and new regulation.</p> <p>We would like to question the impact EIOPA believes an increase of governance standards would have: “A higher governance level (...) should provide for a higher level of product security and thereby greater consumer trust in their retirement savings product, which in turn fosters demand” (p. 16-17). We doubt that the causalities are that direct – trust is built up very slowly, and because of the behavioural factors EIOPA also recognises it is unlikely to directly turn into increased demand.</p>	
<p>Q3</p> <p>Would PPPs benefit from harmonisation of distribution rules? What should be the basis for distribution rules for PPPs? Do you agree with</p>	<p>Overall, the aba calls for a system in which providers of personal pensions are regulated (as is currently the case) and argues against harmonising distribution rules at EU level.</p> <p>EIOPA considers the role of distributors crucial in the success of future PPP products and calls on distributors to “adequately assess the needs of a potential client and tailor the features of a PPP according to those needs” (p. 17). The direct conflict of interest between the distributor and the</p>	

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
EIOPA's proposals?	<p>client is recognized and addressed in Section 2.3.1. "Distribution of PPP – Conduct of business." However, these problems do not arise for the beneficiary at all if pensions are linked to the employment relationship and the employer makes a pension promise.</p> <p>If EIOPA and the European Commission want to reduce the costs of distribution (or avoid them altogether), they need to follow a different approach and strengthen the second rather than the third pillar.</p>	
<p>Q4</p> <p>Would PPP benefit from harmonisation in disclosure rules? What should be the basis of these rules? Do you agree with EIOPA's proposals?</p> <p>Advice on information: p. 39-40</p>	<p>Overall, the aba calls for a system in which providers of personal pensions are regulated (as is currently the case) and argues against harmonising disclosure rules at EU level. We note that EIOPA sees the PRIIPS KID as the starting point for the discussion. From our perspective this section refers to "information requirements" rather than "disclosure requirements".</p> <p>As EIOPA also points out, information requirements are an important part of the review of the IORP Directive. The proposals for a review of the Directive published by the European Commission in March 2014 included a section on information requirements based on the PRIIPs KID, as EIOPA also points out. However, both the Council and the Parliament have amended the proposal, moving away from the structure and terms of the PRIIPs KID towards a specific approach for IORPs.</p> <p>The discussions around the Pension Benefit Statement have shown the difficulties in designing uniform information requirements for occupational pensions which are sensible across the EU. Across and even within Member States, occupational pensions take many different forms (different promises, varying involvement of the member etc.), which makes it hard to define one set of information requirements sensible for each and every one.</p> <p>This issue is compounded when personal pensions are added to the mix, not even considering "other financial products". It seems impossible, illogical and insensible to directly compare an occupational pension based on a benefit promise e.g. to a savings plan such as a building loan agreement. On this backdrop, we would also like to point out that the PRIIPS KID is not a suitable</p>	

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
	<p>starting point for discussing information requirements for occupational pensions – which has been recognised by the Parliament and the Council.</p> <p>We would also like to point out that the following sentence is contradictory: “Having said this, occupational pensions exhibit different characteristics compared to personal pensions, as members’ choices, if available at all, are often limited in comparison to consumers considering to save into personal pension products – or to invest in other financial products, which makes a strong case for comparable information across different investments in the precontractual phase.” (p. 37/38). If there are differences between occupational and personal pensions, how does this make a strong case for a comparison?</p>	
<p>Q5</p> <p>Are you aware of any differences in prudential regimes that would lead to an unlevel playing field amongst PPP providers? Do you agree with EIOPA's view not to add specific capital requirements for PPPs?</p> <p>Draft advice on investment rules for PPP: p. 65-66</p>	<p>Any provider regulation should acknowledge the particularities of the providers regulated. Even if this leads to differences in prudential regimes, this does not necessarily constitute an unlevel playing field if the providers are fundamentally different in nature.</p> <p>We note the arguments in favour of Solvency II, but would like to reiterate that we do not share them. Particularly, we would like to emphasise that neither German IORPs nor German employers are amongst “some participants” mentioned by EIOPA who call for the introduction of Solvency II requirements for all PEPP providers.⁵</p> <p>We note that EIOPA envisages that the PPP helps to finance long-term illiquid investments such as infrastructure, real estate and unlisted SME equities (p. 52).</p>	
<p>Q6</p> <p>Are further supervisory powers -tailored to PEPP -</p>	<p>EIOPA proposes that national competent authorities should “quality assure and sense check on the appropriateness of the PEPP” (p. 69). We would like to point out that currently the German competent Authority (BaFin) does not sense check Riester products. Currently the Federal Central Tax Office has a unit certifying Riester products. It is checked whether products comply with the</p>	

⁵ « Nevertheless, some participants believe that there should be one identical solvency regime for all PEPP providers to really achieve a level playing field. In doing so, some consider Solvency II as the appropriate regime. » (p. 64)

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
<p>necessary? Do you agree with EIOPA's proposals?</p> <p>Further supervisory powers tailored to PEPP: p. 68</p>	<p>legal requirements (legal basis), but no product control is carried out. Requiring the BaFin or an existing or new unit to sense-check products would represent a major shift in regulatory policy. We wonder whether a sense-check by the national authorities is the best way to ensure high quality of the PEPP.</p>	
<p>Q7</p> <p>Do you agree with EIOPA's assessment of the policy options' impacts?</p>	<p>First of all, we would like to address the relationship between Policy Issue 1 and Policy Issue 2. We understand that Policy Issue 1 – Standardisation refers to the objective of the policy: which level of harmonisation is desirable? Once that is decided, the question is how to reach this objective, with Policy Option 2 offering either harmonisation or a 2nd regime as different means to reach the desired objective. If this understanding is correct, we think that EIOPA could have presented this more clearly, e.g. by referring to “objective” and “means to reach the objective” rather than “Policy Issue 1” and “Policy Issue 2”.</p> <p>Turning to the assessment of the policy options' impacts, we would like to point out that from our perspective an important part of the impact assessment is missing: it currently does not take into account any repercussions on ongoing retirement savings. Individuals might already make contributions to an occupational pension plan or have purchased a personal pension product, to which they regularly contribute. If the PEPP was introduced, individuals might just switch their contributions, rather than saving additionally. This is particularly likely if Member States decided to support the PEPP with tax-incentives. From our perspective, this effect is key in assessing the benefits of the policy proposals, but it is currently missing from the analysis.</p>	
<p>Annex I : Impact Assessment</p>	<p>The impact assessment is short, lacks an evidence base as well as detail and coherent arguments. We understand that currently there is no clear definition of what constitutes a PPP or even a PEPP (see our criticism above), which makes it difficult to assess the impact of the regulation. This makes a strong case to first define what constitutes a PPP and a PEPP, and only then work on a thorough impact assessment. However, as shown in the General Comment, this would create new problems because the Member States would not be able to tailor the PPPs / the PEPP according to the needs of their overall retirement system.</p>	

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

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

<p>Section 1. Procedural issues and consultation of interested parties</p>	<p>EIOPA states that the impact assessment is “undertaken according to an Impact Assessment methodology” (p. 77). Which methodology is that? The impact assessment does not seem methodologically sound to us.</p> <p>Regarding the previous consultation which closed in October 2015, EIOPA states « Most responses came from the insurance and asset management industry, whereas consumer representatives' input was fairly limited.” (p. 77) This seems to be an important issue when considering whether the introduction of the PEPP is in the best interest of individuals. We therefore wonder which measures have been taken to ensure that the interests of individuals have been taken into account.</p> <p>The quote above also shows who has a strong interest in the introduction of a PEPP: the insurance and asset management industry. With this in mind, we wonder why EIOPA places such an importance on already mature markets – in other words, markets with plenty of supply: “However, EIOPA would add that taxation hurdles should be tackled, to give providers significant incentives to provide products cross-border. Especially in mature markets with well-recognised PPPs by providers and consumers, opening up possibilities for wider participation amongst potential PEPP providers will be important “ (p. 75). Put differently, why is it particularly important that providers can offer the PEPP in mature markets where a lot of individuals already hold PPPs? The argument that there is a lack of supply seems not to apply to those cases; other factors such as a lack of money are much more likely to prevent individuals from taking out a PPP. To us this suggests that there is a focus on the providers rather than on the individual consumer and beneficiary.</p> <p>In our submission to the last consultation we emphasised that the main issue for cross-border activities – taxation – cannot be addressed at European level. We welcome that this view was shared by the other stakeholders (p. 77).</p>	
<p>Section 2. Problem definition</p>	<p>EIOPA uses “the current situation in relation to personal pensions in Europe” as the baseline scenario for comparing policy options. We would like to emphasise that from our perspective an</p>	

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

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

important part of the baseline is missing in EIOPA's analysis: it currently does not take into account any repercussions on ongoing retirement savings. Individuals might already make contributions to an occupational pension plan or have purchased a personal pension product, to which they regularly contribute. In Germany for example, about 60 percent of employees in the private and public sector are active members of an occupational pension scheme. Over 16.3 million people have pension saving contracts and benefit from "Riester incentives" ([BMAS figures](#)). If the PEPP was introduced, individuals might just switch their contributions, rather than saving additionally. This is particularly likely if Member States decided to support the PEPP with tax-incentives. From our perspective, this effect is key in assessing the benefits of the policy proposals, but it is currently missing from the analysis.

Linked to this point, EIOPA seems to assume that individuals have enough income left to save. This is not the case for all Member States, and even in Member States with relatively high average incomes, there are likely to be significant groups of individuals (those earning the minimum wage; holding temporary contracts; working part-time etc.) who are not in a position to set extra money aside. The impact assessment does not seem to take into account these issues.

EIOPA identified the following advantages and challenges, we have inserted our comments following the arrows in blue:

- "addressing principal agent conflicts and information asymmetry, as shortcomings of an inefficient market, by introducing disclosure requirements, improving product comparability and good governance;"
- *A more efficient way of reducing or even avoiding principal agent conflicts altogether would be to foster occupational pensions. In general employers or where applicable social partners have more know-how and clout when negotiating the conditions of a pension plan than if it is just an individual taking out a pension plan.*
- "efficiency gains through economies of scale and opportunities for risk diversification as well as for competition and innovation;"
- *Does it really make sense to set up completely new EU regulation in order to reap*

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
	<p>economies of scale – wouldn't it be much more obvious to foster existing solutions and helping them grow? To the contrary, such a new regime could lead to a fragmentation of retirement schemes and thus weaken the existing Europe-wide systems of retirement provision.</p> <ul style="list-style-type: none"> • “facilitating cross-border activities and reducing obstacles to further the Single Market;” <ul style="list-style-type: none"> ➤ Since their inception, German Riester-products can also be offered by providers from other EU Member States (see above). In addition, this is unlikely to be achieved by supervisory law alone, as we have laid out in the General Comment, taxation is the crux of the matter. • “opportunity for multi-pillar diversification.” (all quotes from p. 78) <ul style="list-style-type: none"> ➤ In some Member States, these opportunities exist already; in others, there is a lack of an occupational pillar. However, that is not addressed by this project. <p>Overall, we therefore think that the focus on a PEPP is wrong, and that EIOPA should rather strengthen the existing form of funded retirement provision: occupational pensions.</p>	
Section 3. Objective pursued	<p>The PPP envisaged by EIOPA should be safe, transparent and cost-effective (see bullet points on p. 78). Obviously it should deliver the desired outcomes for consumers, and providers need to be able to make a profit in order to offer the product in the first place. In addition, EIOPA envisages that PPPs play a role in fostering an efficient and functioning Capital Markets Union. Is it realistic that PPPs can achieve all this?</p> <p>Regarding the product characteristics which EIOPA deems desirable, we would like to point out that occupational pensions in many Member States (2015 Market development report on occupational pensions and cross-border IORPs) already consist of safe and cost-effective provision.</p>	
Section 4. Policy options	<p>First of all, we would like to address the relationship between Policy Issue 1 and Policy Issue 2. We understand that Policy Issue 1 – Standardisation refers to the objective of the policy: which level of harmonisation is desirable? Once that is decided, the question is how to reach this objective,</p>	

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
	<p>with Policy Option 2 offering either harmonisation or a 2nd regime as different means to reach the desired objective. If this understanding is correct, we think that EIOPA could have presented this more clearly, e.g. by referring to “objective” and “means to reach the objective” rather than “Policy Issue 1” and “Policy Issue 2”.</p> <p>We generally do not support neither harmonisation nor the introduction of a 2nd regime. The requirements for products to fall under attractive tax rules, which vary by Member State and function of the personal pension, should be determined at the national level. The tax framework mainly depends on the financial means available as well as on the level and structure of state and occupational pensions in each Member State.</p> <p>EIOPA states that « none of the proposals and concepts proposed are expected to have any negative impact aggravating the challenges of the current baseline. » (p. 79). This only refers to personal pensions, however, EIOPA should also consider the impact on wider retirement provision, in particular on the second pillar (see our comments above on the baseline scenario).</p>	
Section 5. Analysis of impacts	<p>Overall, we would like to reiterate our criticism of the baseline scenario: the analysis of impacts should take into account how the changes would affect current behaviour, both in relation to occupational and personal pensions. Another question which is not addressed is whether the impacts would vary across Member States.</p> <p>This section is already very short, and within this short section, the sentence “EIOPA’s analysis covered the effects on both consumers and providers.” is repeated five times. It is not followed up with any significant statements or evidence on what the effect of the policy option in question would actually be for consumers and providers.</p> <p>As we have stated in our previous responses, pension systems vary hugely across the EU. Personal pension products therefore vary across the EU as well. They differ in terms of tax treatment, coverage, regulation and many other factors according to the function they have in the overall pension system. From our perspective it is of paramount importance that the Member States</p>	

Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
	<p>have the possibility to define the requirements for state financed incentives for personal pension products as they see fit for their pension system, rather than following EU-level rules.</p> <p>EIOPA states that „Positive impacts of improving the regulation of personal pensions would be positive for consumers“ (p. 81). We do not consider this to be a sound analysis – a <i>positive</i> impact after <i>improving</i> is always <i>positive</i>.</p>	
Section 6: Comparison of options	From our perspective it is impossible to seriously compare the policy options relating to a market as complex as the one for personal pensions on half a page. The missing points identified above should be included in the comparison of options.	