aba – Arbeitsgemeinschaft für
betriebliche Altersversorgung e.V.

Annex to the aba comments on the European Commission's Proposal for a Regulation on a pan-European Personal Pension Product (PEPP)

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1. Background Impact Assessment

Together with the proposal for a regulation, the Commission published an Impact Assessment. This was submitted to the Regulatory Scrutiny Board, an independent body of the European Commission which has to give a positive opinion before the Commission can adopt the initiative.

Opinions provided by the Regulatory Scrutiny Board

The Opinion provided on the PEPP Impact Assessment was negative, the main criticisms were: "(1) The report does not provide evidence to suggest that the PEPP can significantly mitigate the low take up of personal pension products. It also does not explain how the PEPP will be more attractive than national products.
(2) The main report lacks quantified baseline and impacts. It presents an unnecessarily complex set of objectives and policy options."[1]

We agree with these as well as with many of the other points of criticism raised in the Opinion:

- Problem definition and objectives

„If the primary objective of this initiative is to better link long-term household savings to investment opportunities within the EU (i.e. a CMU-related objective), the problem definition and the objectives should be adjusted accordingly. As a result, the potential of the initiative to mitigate the low takeup of personal pension products should be considered as a possible side impact rather than as a specific objective. The impact assessment should also consider further how this initiative works together with other policy measures that pursue wider objectives related to pension challenges"

- Options

„In considering the scope and key features of the PEPP, the report should avoid references to "no policy change" or "baseline policy option" and rather refer to "national treatment". The report could also consider additional sub-options for the definition and the tax treatment of the PEPP. For example, it might consider a fully defined pension product with a specific limited tax advantage inferior to national treatment levels."

- Impacts

„In the absence of tax incentives, the report should be more explicit on what product features would make the PEPP attractive for investors and for providers. (…) The report should explain how the notion of a simple, efficient and competitive PEPP fits with product features that include different national compartments. It should also explain how such national compartments would improve PEPP portability. Finally, the report should explain how the PEPP would contribute to the development of a deep, liquid and efficient CMU."

- Modelling Results

[1] European Commission Regulatory Scrutiny Board, Opinion, p.1.

„The report should qualify the results of the modelling exercise. Specifically, it should clarify the main assumptions of related modelling exercises (e.g. varying degrees of tax incentives) and provide a sense of the uncertainties around the estimates. It should explain to what extent growth in PEPP investments would be at the expense of savings and investments in national pension products.“

The Second Opinion provided by the Scrutiny Board was overall “positive with reservations”. The Impact Assessment received a pass by the Board on the condition, that a number of “significant shortcomings” still need to be addressed. The Key aspects are: “(1) The report still does not sufficiently explain how the preferred option for the PEPP will be more attractive than national products, in particular in the absence of tax incentives. (2) The report does not qualify the estimated uptake of the PEPP and therefore overestimates its contribution to the CMU development. The practical modalities for the implementation of the envisaged PEPP are not sufficiently spelled out. The report also fails to substantiate that the preferred option represents a simple, efficient and competitive EU PPP, as considered in the Commission’s 2016 CMU Communication. (3) The report mentions uncertainties on the effectiveness and political feasibility of the preferred option and therefore does not clearly establish the comparative advantage of the final choice over the baseline or the other options.“

Again, we agree with these main points as well as with the following ones:

- Context, problem definition and objectives

“The report should be further edited to fully focus on the prime CMU objective and remove remaining references linked to the objective of addressing the pension gap that should rather be presented as a potential long-term side impact. The problem definition presents as a fact that further development of the Capital Markets Union is hindered by the low level of personal savings in retirement products by households. This claim should either be substantiated or dropped. The report should also further qualify the relative contribution of this initiative, as compared to other policy measures that pursue wider objectives related to CMU development.

- Options and impacts

The overall impact section should be substantially amended:

- The report should better explain how having the key features of the most successful national personal pension products will make the envisaged PEPP more attractive than national products, given that it has uncertain tax benefits.
- It should also be explicit on which features are standardised and what are flexible. It should explain how national competences in the field of pensions limit the standardisation of the PEPP. It should demonstrate that the envisaged PEPP is simple, efficient and competitive. The added value for self-employed should also be substantiated.
- The report should elaborate further on the practical modalities for the implementation of the envisaged PEPP (powers delegated to EIOPA, conditions and modalities for granting authorisations, portability provisions etc.)
- On the option for the tax regime (section 4.2.7), the report should assess further the envisaged sub-option under option 3, in terms of effectiveness, efficiency and political feasibility. It should also be more transparent on the limited comparative advantages and political feasibility of the preferred option.
- The “overall impact of the preferred option” (section 5) should explain why the Commission is confident on the scenario of the gradual adoption of the PEPP. It should indicate whether there is a risk of failure. It should in particular highlight that the preferred option is a second best solution which shows limited and uncertain benefits compared to the status quo.
- The part on the “macroeconomic impacts” should spell out assumptions versus outcome and policy implications of the results: it should indicate that the model results represent potential impacts under a positive scenario where the PEPP is considered as attractive as national schemes (with tax incentives and assuming that no substitution between the PEPP and national pension plans takes place). Given the simulations of the impact of the

PEPP, the report should highlight that the overall orders of magnitude for asset increatse and shifts in the structure of assets remain small and uncertain for CMU.

- Modelling results

The report should better explain the main assumptions leading to the high estimates of the PEPP uptake since the first year of its operation. Given that the estimated relationship in Annex 4 is completely driven by tax incentives, it should indicate whether the confidence interval for the PEPP (step 3 in annex 4) assumes that national tax regimes apply to PEPP or not.

- Monitoring framework

The report should link the key performance indicators more explicitly to the objectives. It should be possible to distinguish the PEPP contribution to the development of personal pensions from that of national PPPs (indicators 2-4)."

2. Germany in the Ernst and Young Study on the feasibility of a European Personal Pension Framework

At the beginning of the study, Ernst and Young presents the personal pension products analysed in the study (part on Germany copied below). The yellow highlight means that after an initial consideration, the "product" was taken out of the study.

Table: Personal Pension Products in the Study (p. 13)

Member State	Personal Pension Products	Main features			
		Public targeted	Tax treatment of contributions	Tax treatment of yields	Tax treatment of withdrawals
Germany	Occupational Pension Schemes ('Berufsständische Versorgungswerke')	This product does not meet all the criteria of the Personal Pension Product definition as explained below: • 'Berufsständische Versorgungswerke' is not based on an individual contract with the provider but on the provider's bylaws. The pension scheme is mandatory for specific professionals and inaccessible for othe professional groups. They are meant to replace the public pension system for the members of the professional group concerned.			
	Government-subsidised pension saving products ('Riester-Rente')	Employees and specific liberal professions obliged to pay into the statutory pension scheme	Contributions plus state-allowances are tax deductible up to specific limits	Exempt during saving phase (deferred taxation)	Taxable under conditions
	Basis Pensions ('Rürup-Rente')	All, but focus on liberal professions	Contributions are tax deductible up to specific limits	Exempt during saving phase (deferred taxation)	Taxable under conditions
	Private Pensions ('Private Altersvorsorge')	All	Contributions are not deductible	Exempt during saving phase if contract meets specific conditions	Taxable under conditions

Comments:

- "Occupational pension schemes" is not a translation for "Berufsständische Versorgungswerke". Occupational pensions are a promise made by the employer to their employees. They financed either by the employer, the employee, or jointly. Berufständische Versorgungswerke provide pensions in lieu of the first (state) and second (occupational) pillar for those in liberal professions (doctors, pharmacists, notaries, architects, lawyers and other professions).
- What is understood under "liberal professions" in the context of the Riester-Rente and Rürup-Rente?
- Spouses of certain groups of employees[2] are also eligible for the Riester incentive.
- The Rürup Rente is open for everyone subject to German income tax domiciled in Germany. However, contributions to the first (state) pillar as well as to Berufständische Versorgungswerke count towards the maximum tax free amount, factually focusing the Rürup Rente on those not covered by any first pillar provision, i.e. mostly the self-employed. (§10 EStG, BMF-Schreiben vom 19. August 2013 (BStBl I S. 1087)). Because of the intention to mirror the provision by the first pillar, the conditions for the Rürup Rente are relatively strict: the pension is not heritable, it cannot be transferred to someone else, it cannot be used as collateral, it is not saleable and cannot be capitalised.

The Study also contains more detailed files for the different products analysed. For Germany, this covers Riester, Rürup and private Vorsorge (from p. 77 onwards)

[2] Regelungen der abgeleiteten Zulagenberechtigung, see § 79 EStG.

Germany

Rürup-Rente

Country:	Germany
Product:	Basis pensions
Local name:	Rürup-Rente
Overall tax regime:	EET
Upcoming changes:	Yes
Supplementary in-payments byemployer:	Yes
Comments:	Foreign providers are allowed to sell the product

In-payments

Tax treatment:	*Partially Exempt (reduced tax base)* *Policyholders are allowed to deduct a set amount of their contributions from their taxes as special expenses.*
Maximum amount that qualifies for tax relief:	*In 2016, 82% of a maximum EUR 22,767 for single individuals (EUR 45,543 for married couples) of contributions could be deducted from taxable income.*

Yields

Tax treatment:	*Exempt* *No additional conditions required.*

Decumulation

Decumulation options:	*Annuities* *Mandatory option*
Tax treatment:	*Taxed - Germany is currently in a transition period (moving towards a retroactive taxation with full deductibility of contributions and full taxation of payments in the retirement phase). By 2040 pensioner income will be fully taxed. Until this date, pensioners benefit from a tax-free part of their pension. The tax-free part is calculated based on the pension received in the first year after the retirement. For the individual pensioner, this tax-free part is nominally fixed at the beginning of retirement. Overall, the tax free portion decreases on a sliding scale until 2040 (where 100% of the pension payment will be taxed), meaning that each new generation of pensioners is taxed on a larger proportion of their income. For pensioners there is a lump-sum allowance of EUR 102. No tax has to be paid if the total income of the pensioner does not exceed EUR 8,652 in total.*
Early out-payments:	*No*

Switching

Domestic:	*Transfer not possible*
Cross-border:	*Transfer not possible*

General features

Main distribution path:	*Insurance networks, brokers/agents*

Accumulation phase

Study on the feasibility of a European Personal Pension Framework

Timeframe for the accumulation of funds

Age limit for start of decumulation:	*The start of the decumulation phase is not possible before the age of 62.*
Possibility of choosing age at decumulation:	*Individuals may choose an age higher than 62 years old.*

In-payments

Possibility of changing level of in-payments:	*It is possible to make extra contributions; it may be possible to suspend payments depending on the contract.*

Investment options

Information not available

Mitigation of investment risk

Information not available

Advice

Information not available

Comments:

- For other products, information is provided on the population who is eligible to buy the product / get the related tax relief. This is not the case for the Rürup-Rente, even though it is particularly important to mention the factual focus on the self-employed (for more explanation, see above). Its high tax free contribution limits therefore come attached with a number of strings: the pension is not heritable, it cannot be transferred to someone else, it cannot be used as collateral, it is not saleable and cannot be capitalised.

Riester-Rente

Country:	Germany
Product:	Government-subsidized pension saving products
Local name:	Riester-Rente
Overall tax regime:	EET
Upcoming changes:	None planned
Limited population:	Other: employees obliged to pay into the state based pension scheme (or into the pension scheme for farmers) and state officers and equivalent persons (such as judges, soldiers, etc.) and their spouses (and equivalents)
Comments:	Foreign providers are allowed to sell the product

In-payments

Tax treatment:	*Partially Exempt (tax reduction)*
Maximum amount that qualifies for tax relief:	*Yes, EUR 2,100*

Yields

Tax treatment:	*Exempt* *No look-through at beneficiary level*

Decumulation

Decumulation options:	*Annuity, lump sum, combination of lump sum and annuity* *No mandatory or default option*
Tax treatment:	*Taxed*
Early out-payments:	*Yes*
Tax treatment	*Taxed*

Switching

Domestic:	*No tax impact*
Cross-border:	*Transfer not possible*

General features

Assets under management	*€223,588m*
Main distribution path:	*Banks, insurance brokers, insurance networks and online*

Accumulation phase

	Timeframe for the accumulation of funds
Age limit for start of decumulation:	*The start of the decumulation phase is not possible before the age of 62*
Possibility of choosing age at decumulation:	*Individuals are able to choose an age higher than 62 years old.*
	In-payments
Possibility of changing level of in-payments:	*It is possible to change the amount of payments and it is mandatory for contracts to include the right of the taxpayer to suspend the contract.*

Investment options

Limitations on investment options:	*The following products are available: bank savings plans, fund saving plans, fund-linked pension insurance, private pension insurance, occupational pension vehicles and private homes.*

Mitigation of investment risk

Strategy choice:	*There are different investment options, e.g. fund-linked pension insurance, bank savings plans, insurance products, etc. The policyholder can choose an investment options which pursues a more aggressive strategy (e.g. fund-linked pension insurance) or a more defensive strategy (bank savings plans or private homes).*
Guarantee on minimum return:	*The pay-out is at least as high as the invested capital.*

Advice

Mandatory advice from distributors:	*Yes, there are common disclosure obligations for providers.*

Comments:

- In addition to the tax breaks, the government subsidies provided under a Riester pension should be mentioned.
- The Riester incentive can also be claimed in the second pillar (Riester-bAV), we assume that this is meant (but not adequately explained) by listing "occupational pension vehicles" as an investment option. The re-

cently passed Betriebsrentenstärkungsgesetz will make this form of occupational pension provision more attractive. Potential payments by the employer are not mentioned here.

- It is not possible to choose a lump sum at the point of decumulation (see §10a EStG in combination with §5 AltZertG).
- Overall, we think it would be beneficial if all country files used the same categories (they are not coherent in the study), if information was not available or not applicable, this should be stated rather than dropping the category altogether.

Private pensions

Country: Germany

Product: Private pensions

Local name: Private Altersvorsorge

Overall tax regime: TET

Upcoming changes: None planned

Supplementary in-payments by employer: Yes

Comments: Foreign providers are allowed to sell the product

In-payments

Tax treatment: *Taxed*
No deduction available for the beneficiary/taxpayer

Maximum amount that qualifies for tax relief: *N/A*

Yields

Tax treatment: *Exempt*

Decumulation

Decumulation options: *Lump sum, annuity*
No mandatory or default option
Taxpayers can generally choose freely between these options. Details depend on contractual terms and conditions.

Tax treatment: *Taxed*

Early out-payments: *Yes,*
Tax treatment: *Taxed*

Switching

Domestic: *Transfer not possible*
Cross-border: *Transfer not possible*

General features

Main distribution path:	*Insurance networks, broker agents, online*

Accumulation phase

Timeframe for the accumulation of funds

Age limit for start of decumulation:	*No*
Possibility of choosing age at decumulation:	*Yes*

In-payments

Possibility of changing level of in-payments:	*Contributions can be reduced or put on hold according to contractual terms and conditions*

Investment options

Information not available

Mitigation of investment risk

Information not available

Advice

Information not available