

**Comments Template for  
Discussion paper on a possible EU-single market for personal pension  
products**

**Deadline  
16 August 2013  
18:00 CET**

Name of Company:

PensionsEurope

PensionsEurope represents national associations of pension funds and similar institutions for workplace pensions. Some members operate purely individual pension schemes.

PensionsEurope has 23 member associations in EU Member States and other European countries with significant – in size and relevance – workplace pension systems .

PensionsEurope has established a Central & Eastern European Countries Forum (CEEC Forum) to discuss issues common to pension systems in that region.

PensionsEurope member organisations cover the workplace pensions of about 80 million European citizens. Through its Member Associations PensionsEurope represents approximately € 3.5 trillion of assets managed for future pension payments.

PensionsEurope Members are large institutional investors representing the buy-side on the financial markets.

Contact:

Mr. Matti LEPPÄLÄ, Secretary General/CEO

Koningsstraat 97 rue Royale – 1000 Brussels

Belgium

Tel: +32 (0)2 289 14 14 / Fax: +32 2 289 14 15

matti.leppala@pensionseurope.eu

www.pensionseurope.eu

Disclosure of comments:

EIOPA will make all comments available on its website, except where respondents specifically request that their comments remain confidential.

*Please indicate if your comments on this CP should be treated as confidential, by deleting the word **Public** in the column to the right and by inserting the word **Confidential**.*

**Public**

**Comments Template for  
Discussion paper on a possible EU-single market for personal pension  
products**

**Deadline  
16 August 2013  
18:00 CET**

Please follow the following instructions for filling in the template:

- ⇒ Do **not** change the numbering in the column "question"; if you change numbering, your comments cannot be processed by our IT tool.
- ⇒ Leave the last column empty.
- ⇒ Please fill in your comment in the relevant row. If you have no comment on a question, keep the row empty.
- ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.
  - If your comment refers to multiple questions, please insert your comment at the first relevant question and mention in your comment to which other questions this also applies.
  - If your comment refers to parts of a question, please indicate this in the comment itself.

**Please send the completed template, in Word Format, to [personalpensions@eiopa.europa.eu](mailto:personalpensions@eiopa.europa.eu). Our IT tool does not allow processing of any other formats.**

Question	Comment
General Comment	PensionsEurope welcomes the opportunity to comment on EIOPA's Discussion Paper on a possible EU-single market for personal pension products. While the first and the second pillar should provide the bulk of the retirement income, personal pensions (third pillar) can be a useful instrument to further top up retirement income and contribute to securing the future adequacy and sustainability of pensions.

<p style="text-align: center;"><b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b></p>		<p style="text-align: right;"><b>Deadline 16 August 2013 18:00 CET</b></p>
	<p>We appreciate EIOPA's efforts to raise the quality of third pillar retirement products. However, before undertaking any action, EIOPA should carefully consider whether it has sufficient powers to adopt effective policy actions in this field, namely due to its lack of competence in fiscal matters. It should also be considered whether the range of personal pensions and the objective of creating a common EU framework for these products is necessary. These products vary considerably in their function, and are to a large extent already regulated.</p> <p>In the event EIOPA decides to continue working on the development of a single market of personal pension products (PPPs), it is of key importance that EIOPA adequately defines the scope of private personal pensions in order to avoid confusion and legal uncertainty in some Member States. Private individual pension schemes must be clearly differentiated from private workplace schemes. In this regard, EIOPA must ensure that all the existing workplace pension schemes in the different EU Member States are taken into consideration. PensionsEurope view is that any kind of pension scheme linked to a current or previous employment relationship shall be considered part of the second pillar (workplace pensions). The involvement of the employer should be a key factor used to distinguish second and third pillar pension schemes.</p> <p>Moreover, as outlined by EIOPA in its Discussion Paper, both passporting and the so-called 2<sup>nd</sup> regime have important advantages but also significant drawbacks. Regardless of which approach is finally followed (if any) by EIOPA, it is PensionsEurope's view that it should respect the existing national PPP regimes so as to avoid disrupting systems that currently operate satisfactorily.</p> <p>Finally, we would want to ask EIOPA and the different Directorate Generals of the European Commission dealing with personal and occupational pensions to closely coordinate amongst them in order to ensure consistency across the different on-going initiatives in the EU.</p>	
Q1	<p>Although the distinction between the three different pillars in the pensions system is widely accepted across Europe, in some Member States their boundaries are blurred and their respective importance differs widely across the European Union. Identifying the list of common features of EU PPPs is therefore a very complex task.</p> <p>The list of features presented by EIOPA in paragraph 3.1.3 seems accurate for a <i>majority</i> of PPPs in Europe. However, we would like to stress the importance of taking into account <i>all</i> existing PPPs in the EU when adopting new rules for the sector. The aim should be to avoid disrupting national systems that currently operate satisfactorily.</p>	

**Comments Template for  
Discussion paper on a possible EU-single market for personal pension  
products**

**Deadline  
16 August 2013  
18:00 CET**

	<p>We would like to highlight two key features of PPPs which we believe should be used to distinguish private personal pensions from private workplace pensions:</p> <ol style="list-style-type: none"> <li>1) Private personal pensions are not linked to a current or previous employment relationship. We believe that this is certainly a common feature of European PPPs. This characteristic is outlined by the OECD in its <i>revised taxonomy for pension plans, pension funds and pension entities</i> when defining private personal pension schemes. It would also be in line, for instance, with the current situation in some countries such as Belgium: When a Belgian employee ends his employment relationship with an employer where he had a workplace pension scheme, he can choose between different options regarding his accumulated capital. One of these options is to transfer his accrued rights to an insurance company or a specific institution facilitated by the employer which manages the accrued pension rights for employees who left their employer. According to Article 32 of the Belgian Occupational Pensions Act, this option has a clear occupational pension's character although only individuals can transfer money to these vehicles.</li> <li>2) Closely related to the previous point, the involvement of the employer should play a key role when differentiating second and third pillar pension schemes. In the UK, for instance, Group Personal Pensions (GPPs) take the form of individual contracts between the scheme providers and the beneficiaries. However, the employer plays a key role in the establishment of the scheme and also by paying contributions. Indeed, GPPs would not exist without the mediation of the employer. GPPs have therefore the nature and characteristics of workplace pensions and should be regulated as such.</li> </ol>	
Q2	<p>Since life insurers, credit institutions and investment companies are already regulated at EU-level and can therefore operate across the EU, it is arguable whether there is a need for action of EIOPA in this field. However, in the event EIOPA decides to continue its works in this field, we believe that EIOPA should focus its actions on DC PPPs since DB PPPs are more likely to raise cross-border issues. The legislation would also be in line with the tendency in the European pensions market to move from DB to DC schemes.</p>	
Q3	<p>Most of the entities providing PPPs in the EU are already adequately regulated by European and national legislations. Hence, any potential regulation applicable to PPPs must not include additional prudential requirements for PPP providers.</p>	
Q4	<p>One could argue that there is already a single market for PPPs since various providers of private personal pensions are already regulated by EU laws and can provide their services throughout</p>	

<p style="text-align: center;"><b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b></p>		<p style="text-align: right;"><b>Deadline 16 August 2013 18:00 CET</b></p>
	<p>Europe. However, any improvement / enlargement of this single market (which would possibly require fiscal harmonisation measures) would help the development of the pensions market and therefore improve the citizen's overall retirement benefits. PPP providers would be able to benefit from more economies of scale linked to the possibility of reaching a pan-European market. Competition in the market will increase and result in lower prices for PPPs consumers. The mobility of citizens across the EU would also benefit from the transferability of PPPs.</p> <p>However, it is crucial that occupational pensions are not included in this project. Members and beneficiaries of occupational pensions are primarily protected by social and labour law. The different national approaches in this area mean that a single markets would be difficult to create and quite unlikely to be foster occupational pensions.</p>	
<p>Q5</p>	<p>EIOPA's definition is simple and comprehensive. However, it might be over simplistic and lead to confusion and legal uncertainty in some Member States were the boundaries between the second and third pillar pension schemes are not so clear. This could be the case, for instance, of the Belgian and UK examples described in question 1. It is important that EIOPA ensures that all the existing workplace pension schemes in the different EU Member States continue to be considered as such.</p> <p>In this regard, the OECD definition seems more comprehensive. It makes explicit reference to the fact that the access to these plans must not have to be linked to an employment relationship and without any intervention of employers. As stated on our answer to question 1, we believe that these two features are key when differentiating private personal pension schemes and private workplace pensions. On the other hand, a too detailed definition risks leaving out of the scope certain existing workplace pension schemes in the EU. One should bear in mind that there are over 140.000 IORPs in the EU.</p> <p>Hence, a combination of the two definitions provided in the Discussion Paper would probably be the most appropriate.</p> <p>EIOPA could also consider using as a basis for its work the following definition: "Third pillar retirement products are defined as private retirement products subscribed to by consumers on an individual basis, as opposed to occupational pension schemes linked to an (former) employment relationship, either voluntary or mandatory".</p> <p>Last but not least, EIOPA should also carefully consider whether there is a need for a unified</p>	

<b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b>		<b>Deadline 16 August 2013 18:00 CET</b>
	definition of PPPs across the EU. The products captured include voluntary arrangements under the third pillar, savings products for the self-employed that for example in Germany are partly not captured by the state pension system as well as the 1st pillar bis products in Central and Eastern Europe. Due to this wide range of products with different functions and characteristics, only if there are strong arguments in favour, EIOPA should proceed with its work.	
Q6	We believe that such pension schemes should be considered as workplace pensions since there is an employment relationship link and the employer plays an active role in the establishment of the pension plan.	
Q7	We believe that the EU single market should include only regulated PPPs. As these PPPs already count with defined legal frameworks which provide for cross-border operations, the potential new legislation could focus on the development of the product characteristics.  Moreover, it is fundamental that each pension scheme is subject to the regulations that are more appropriate to its nature and characteristics. In this sense, and as previously stated, pension schemes linked to a current or previous employment relationship and which count with an active enrolment of the employer should be regulated as workplace pensions (pillar II).	
Q8	PensionsEurope supports the development of a transferability framework of the capital accumulated in a PPP to another PPP, regardless of the institution that provides the PPP. Such measure would increase labour mobility across the EU and would give EU citizens more choices when making their investment decisions. However, the adoption of a transferability framework entails complex fiscal issues due to the different nature and structure that PPPs currently have across the EU.	
Q9	We do not anticipate major prudential obstacles when creating a single market for different PPP providers. In several EU countries PPPs are already provided by different institutions and this has not led to specific problems. Nevertheless, it is important to closely monitor the transposition of the EU legislation into the national laws in order to ensure a level playing field across the EU Member States.	
Q10	Please refer to question 2	
Q11	We do not see major tax obstacles other than the ones identified by EIOPA. Given that fiscal legislation needs to be adopted by unanimity vote in the Council, we believe that removing these obstacles will be particularly difficult. Time-table constraints should also be taken into consideration: fiscal legislative proposals usually require several years of negotiations amongst Member States in the Council before they are adopted.	
Q12		

<b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b>		<b>Deadline 16 August 2013 18:00 CET</b>
Q13	We do not believe that the CJEU case law is sufficient since, as outlined by EIOPA in its Discussion Paper, there are still some unresolved tax issues, in particular double taxation obstacles. The only practical way of removing these burdens seems to be the harmonisation of tax arrangements between EU Member States.	
Q14	Yes, to a great extent transferability requires harmonisation of the tax treatment of pensions across the EU. As stated in Question 11, we deem very difficult this harmonisation since the EU Member States will need to unanimously agree on such measure. If Member States agreed on the establishment of a common system of taxation, this option could possibly be less problematic since the recognition of the different national regimes should be sufficient. However, it needs to be kept in mind that taxation is a competency of the Member States.	
Q15		
Q16	EIOPA should consider the possibility of developing Guidelines, in collaboration with stakeholders, for 1 <sup>st</sup> pillar bis pension schemes as an initial approach on this matter.  Moreover, if a single market for 1 <sup>st</sup> pillar bis pension schemes was to be developed, it should be considered the possibility of allowing these funds to be managed by the same institutions that are already entitled to manage workplace pensions and PPPs.	
Q17	The IORP Directive would have a limited scope; it would only apply to “institutions for occupational retirement provision” as defined in Article 6a of the IORP Directive. As stated in question 16, the European Commission and EIOPA should consider the possibility of the developing Guidelines for 1 <sup>st</sup> pillar bis pensions in collaboration with interested stakeholders.	
Q18		
Q19		
Q20	As outlined by EIOPA in its Discussion Paper, both “passporting” and “the 28 <sup>th</sup> regime” have important advantages but also significant drawbacks. Irrespective of which approach EIOPA finally decides to follow, PensionsEurope is convinced that it should respect the existing national PPP regimes so as to avoid disrupting systems that currently operate satisfactorily.  Moreover, any prospective policy action seeking to improve the EU framework for the cross-border provisions of PPPs should be based on four main pillars: (i) Redemptions shall only be allowed at a certain age (e.g. 65) or moment (e.g. retirement or death); (ii) It should not discriminate among the different PPP providers; (iii) The products must fulfil a series of risk limitation requirements, such as specific investment and diversification rules; and (iv) They should have an attractive tax regime in	

<b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b>		<b>Deadline 16 August 2013 18:00 CET</b>
	order to stimulate long-term savings.	
Q21		
Q22		
Q23		
Q24		
Q25		
Q26	<p>Transparency is important both at pre-contractual and contractual stages in order to ensure that PPP holders are completely aware of the characteristics of the product that they purchase/envisage to purchase.</p> <p>Similar to other consumer products, potential subscribers shall be given the possibility to compare between different products in order to ensure that they find the product that best matches their profile. Individual pension products could also offer an investment choice between several options with a default option (lifecycle fund).</p> <p>During the accumulation phase, on-going information should be provided to the pension holder. He should be informed at least on an annual basis of the value of the capital accumulated, comparing it with the previous years. Information on the total return on management activities and comparable results with the selected benchmark should also be provided. Finally, he should also be informed of what he can expect to receive in the future in terms of income.</p> <p>As far as the differences to be considered with respect to the workplace pension schemes, one should bear in mind a key difference: while personal pension plans have “consumers”, workplace pension schemes refers to “beneficiaries”, which are already protected by the social and labour laws of each Member State.</p>	
Q27	<p>In the pre-contractual phase, information should be presented to the potential PPP holders in the form of Key Investor Information (KII) or Key Information Documents (KID) like documents. A consumer-friendly display of the information and uniform terminology and definitions across the EU are desirable.</p> <p>Potential subscribers must be given sufficient information to enable them to make adequate investment decisions. Information should allow a comparison of different products, and must</p>	

<b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b>		<b>Deadline 16 August 2013 18:00 CET</b>
	include information about the product, provider, custodian, auditor, supervisory authorities and distributors. It must also disclose the possibility of capital loss, investment objectives, investment policy, risk profile as well as an historical evolution of the returns of the products. In addition, it must also include information about the subscription, redemption and transfer costs.	
Q28	Must know: information about the product, provider, custodian, auditor, supervisory authorities, distributors, possibility of capital loss, investment objectives, investment policy, risk/reward profile, historical evolution of the product returns and information about the subscription, redemption and transfer costs. Should know: possible outcomes Nice to know: applicable law, IT tools	
Q29	The referred questions identified for workplace pensions are applicable for PPP since citizens seek with both schemes to prepare for their retirement ensuring an adequate level of pension in the future. However, PPP holders should specifically be aware of their redemption and transfer rights.	
Q30	We certainly believe a KII/KID document would be appropriate for PPPs. It shall contain sufficient information to enable potential subscribers to adopt the investment decisions more adequate to their profile. The information shall be presented in a reader-friendly format. One of the key advantages of adopting a standardised format is that it will allow PPP holders to compare between different products and even between different providers.	
Q31	The risk-reward profile used in the UCITS Directive could be a good reference to be used when defining the risk-reward profile for private personal pensions. This would include the use of the synthetic indicator.	
Q32		
Q33	It is PensionsEurope view that personal pension subscribers have the right to know the costs linked to their investment decisions. In this regard, subscribers should be aware of the commissions charged, including the subscription commission, transfer commission, redemption commission, supervision fee, management commission and deposit commission. On the other hand, we do not deem appropriate to disclose the transactions cost. The information should be presented in a comprehensible manner.	
Q34	In our opinion, illustrative pension projections of the different possible scenarios (positive, neutral and negative) would help PPP subscribers better understand the product that they intend to purchase. Hence, we believe that such projections should be provided at least once a year to the PPP holders.	
Q35	Personal pension holders should be provided at least with a hard copy of all the basic information described under the “must know” layer on our answer to question 28. Moreover, during their	

<b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b>		<b>Deadline 16 August 2013 18:00 CET</b>
	contract relationship they shall be given access to more technical and detailed information through different IT tools.	
Q36	Pre-contractual information should always be made available in a durable medium (similar to the one requested in the UCITS Directive) and free of charge. Upon request, a paper copy should be delivered and free of charge. It would be helpful that this information is also made available on the website of the PPP provider, complemented with other IT tools that offer the PPP holder more detailed/technical information.	
Q37	As stated in our answer to question 30, the information should be standardised using KID/KII like formats. The format should be sufficiently standardised in order to allow subscribers to compare between different kinds of products and providers.	
Q38		
Q39		
Q40	During the accumulation phase, personal pension subscribers should be informed at least on an annual basis of the value of the capital accumulated, comparing it with the previous year. Information on the total return on management activities and comparable results with the selected benchmark should also be delivered. Finally, subscribers should also be informed of the annuities they can expect receiving in the future.	
Q41		
Q42	Please refer to question 34	
Q43	PPP holders should be given different options in terms of costs and risk-rewards when switching. Moreover, they should be clearly informed of the total amount of capital that will be transferred, when it will be transferred and its costs. Regarding termination, PPP holders should be provided with all the information relating to the options available for the payments of benefits and the costs linked to each option.	
Q44	We believe that it will not be useful to include information about the other pillars since pension calculations vary from one country to another. For instance, in Finland pillar II pensions only supplement pillar I pensions to the maximum of employer total pension promise. Due to the variety of regimes across the EU, information about the other pillars will not be comparable and hence it would not be useful for PPP subscribers.	
Q45		
Q46	Please refer to questions 30 and 37	
Q47	On-going information should also be made available in a durable medium and free of charge at	

<b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b>		<b>Deadline 16 August 2013 18:00 CET</b>
	least on an annual basis, combined with access to IT tools that provide more technical information.	
Q48	The provision of on-going information on a durable medium seems suitable to be presented at least on an annual basis. However, PPP holders should have access to IT tools that enable them to closely monitor their investment at any time.	
Q49	PPP holders should be informed of special circumstances that could occur such as important changes in the investment policy, increases in the commissions charged and/or significant changes in the frequency of the calculation or disclosure of the value of the units.	
Q50	PPP holders should have access to IT tools that enable them monitor the situation of their investment at any time, provided that this option is included in the contract rules.	
Q51		
Q52	Yes, we believe that it is important that when PPP holders approach the retirement age they should be informed of the different options they have for the payment of benefits and the costs linked to each option.	
Q53		
Q54		
Q55		
Q56	EIOPA and the Commission should enhance the independence and objectivity of intermediaries so as to prevent conflicts of interests.	
Q57		
Q58		
Q59		
Q60		
Q61		
Q62		
Q63		
Q64		
Q65		
Q66		
Q67		

<b>Comments Template for Discussion paper on a possible EU-single market for personal pension products</b>		<b>Deadline 16 August 2013 18:00 CET</b>
Q68		
Q69		
Q70		
Q71		