Consultation Paper on Implementing Technical Standards regarding the format of supervisory reporting and the cooperation and exchange of information between competent authorities for the Pan-European Personal Pension Product (PEPP) **JOINT IRSG/OPSG ADVICE**		OPSG-20-24 IRSG-20-23 18/06/2020
Organisation's name:	**EIOPA's OPSG and IRSG**	
Reference	**Comment**	

Q1: Do you agree with EIOPA's proposal on the relevant information to be reported to National Competent Authorities to fulfil their legal duties?	Please note that detailed reporting rules from PEPP providers to supervisors regard primarily those providers and supervisors. Users and consumers IRSG and OPSG representatives are not able to provide significant value added inputs here as they have limited knoweldge of these processes, which they are not part of. EIOPA should therefore note that the response below reflects mainly industry positions. Therefore we stress that generally we agree with EIOPA's proposals, especially with regard to the areas covered, the reporting standardization, the quantitative reporting and the supervisory convergence. Nevertheless we urge for more detailed provisions in some articles and paragraphs especially with regard to Product Oversight and Governance requirements and the possible use of Product Intervention Powers (these comments have been attributed below). We share the aim of EIOPA to have comparable and relevant information on all PEPPs, To facilitate the effective supervision of compliance with the PEPP Regulation, we agree that it is important to establish the most adequate templates for the submission of quantitative (and qualitative when needed) information by the PEPP providers to the competent authorities, and that an appropriate level of detailed information is crucial for the implementation of a risk-based supervisory review process and product-level supervision. There are however concerns EIOPA's so-called "reduced" approach could in reality turn out to be an "extended" burdensome, costly and disproportionate one. The suggested content would duplicate information already: • covered by existing sectorial reporting applicable to insurers (eg. information on assets and look-through) and disclosure in information documents (eg. costs breakdown) which will be handed over to the national authorities when registering a PEPP. • available to national authorities as part of the registration process (article 6(2)). • available to EIOPA in its central public register (article 13). Synergies would be welcomed (eg. limiting reporting templates to PEPP specific only) and only updates of the related information should be reported to avoid such unnecessary duplication of reported information. The suggested templates require an extensive level of details to be provided. Data collection in general should always be subject to a cost benefit assessment to ensure product cost-efficiency, meaning that the gain in knowledge must be substantial enough to justify related costs. Furthermore, clear guidance and definitions are also missing from the consultation paper on certain aspects (eg. cost of guarantees, distinction between one-off and recurring costs, definition of complaints…). Clarity is essential to ensure high quality and consistent reporting across providers and countries.	

Q2: Would you propose any change or other information to be covered by the regular data requests to enable relevant analyses at country/EU/EEA level?	Insurers are already subject to sophisticated reporting stemming from the Solvency II framework. As per our response to Q1, we believe that PEPP reporting should be incorporated in sectorial annual reporting so as to minimise costs and the burden of compliance. However, these aspects are currently being discussed in the context of the Solvency II 2020 review. More information on the insurance industry's proposals to streamline and improve Solvency II requirements can be found in the Insurance Europe response to the first consultation on reporting available here (October 2019) and the Insurance Europe response to EIOPA's proposals regarding reporting and disclosure in the context of the Solvency II 2020 review (wave 2) is available here (relevant chapter is chapter 7, from page 87-95).Consumer representative:Article 5 (c): It must be stressed that, following to PP.52.01 of Annex II, "administration costs" must include not only those of insurance contracts but those of ongoing capital investment as well. Article 6 (2):The following sentence should be added to this paragraph: "In order to minimise any kind of consumer detriment, particular attention must be paid at any infringements of Product Oversight and Governance requirements by product manufacturers and distributors. Consequently the possible use of the Product Intervention Powers by the European or National Competent Authorities has fully to be taken in consideration." Article 16 (1) (e): It should be added: "especially with regard the possible use of product intervention powers by the European or National Competent Authorities ." Article 16 (4): instead of "in a timely manner" it should be stipulated more precisely: "promptly" (like the German judicial term "unverzüglich" - without any delay). Article 16 (5): The following sentence should be added to this paragraph: "This information has to be given in a timely manner." Article 16 (6) (e): It should be added: "especially with regard any possible infringements of the Product Oversight and Governance requirements." Article 17 (2): The following sentence should be added to this paragraph: "More granular information from distributors or advisors of PEPP is particularly needed with regard to data, disclosing how many times the basic PEPP has been advised to the total number of clients for a certain PEPP. The same information but aggregated should be given at product manufacturer level." Explanation: Considering the 1% fee cap for the basic PEPP, which is mandatorily subjected to investment advice, PEPP providers will naturally try to incentivise advisers or savers (through marketing communication) to sell the alternative investment options, which may not always be the most suitable choice for pension savers. Article 19 (1) (c): Just behind "any necessary regulatory action" should be added: "especially with regard the possible use of product intervention powers by the European or National Competent Authorities ." Article 20 (1) (b): It should be added: "especially with regard the possible use of product intervention powers, administrative penalties or other measures by the European or National Competent Authorities ."	

Q3: Do you agree with the frequency and scope of the data requests (annual, split between basic PEPP and alternative investment options)?	Regarding the frequency of reporting, the insurance industry supports reporting PEPP related information on an annual basis. This is a reasonable frequency to properly monitor PEPP developments while reducing/managing regulatory burden. In the same time, the insurance industry is concerned that article 4 draft ITS (re-submission of data in case of material changes) might not fully reflect provisions laid down by the level 1 Regulation. According to article 40 of the PEPP regulation, a competent Authority could require PEPP providers PEPP to submit information in the context of ordinary requests (i.e. periodically and at predefined intervals) while extraordinary requests are also to be foreseen in case of "predefined events" (article 40 (2)). Therefore, EIOPA should clearly specify what these predefined events are. In practice, a "material change in relation to the same reporting period after the last submission" is too broad and leaves it up to a subjective assessment. It could therefore trigger compliance risks and result in inconsistent reporting. Also, such "material changes" could happen frequently for newly commercialized products (eg. number of savers would increase by 100% or more from day 1 to day 2). Moreover, without a clear indication of what type of information should be re-submitted, it could possibly result in requiring a full re-submission even if these changes are only related to a small part of the reporting template. Regarding the granularity of reporting, splitting information to be reported between the Basic PEPP and the non-Basic PEPP would be extremely burdensome and conflict with sectorial frameworks applicable to providers and also to some extent with the PEPP Regulation. - First, insurers are already subject to very sophisticated and elaborated reporting requirements which do not require to report on a product basis and not on all business lines (pending to Solvency II 2020 review).- Then, the PEPP framework does not require insurance-based PEPP to be ringfenced (just IORPs article 6(1)(c)). Reporting assets on a Basic PEPP/non-Basic PEPP basis will therefore be challenging, most of all for PEPP using Smoothing and Pooling as a risk mitigation technique.	

Q4: Do you agree with EIOPA's impact assessment?	The consultation paper and the annexed impact assessment do not analyze and detail enough the impact of these reporting standards on different pension providers, in particular on the related additional administrative tasks and costs. The impact will be different between providers and across countries, as the current national approaches to product supervision are highly divergent. These ITS should be as close as possible to current supervisory reporting commonly used for personal (and as much as possible for occupational) pension products in Europe to avoid unnecessary additional workload and related costs for savers. In particular, EIOPA should review the adaptation of overlapping reporting obligations among PEPP and local products through which providers may instrument PEPPs. Such overlap may entail duplicating but slightly different compliance efforts, thus increasing the costs of those entities wishing to enter into the PEPP market. A proper assessment is missing from the analysis. EIOPA should also carefully review the requested information to find the most appropriate trade-off between real needs and the administrative efforts / costs to comply with these standards. The insurance industry is concerned when reading in the impact assessment that "the level of granularity can be adapted in the future, if deemed appropriate" (page 53). EIOPA must take the necessary time to develop solid technical standards in one go, so as to minimise the need for updates and the cost of compliance. Unclear provisions could expose providers to an unquantifiable level of legal/compliance risks. It is also important to leave the industry enough time to implement and perform these requirements.Regarding the timing in general, the insurance industry is also concerned that disruptions resulting from the outbreak of COVID-19 could have an impact on the development and the quality of PEPP technical standards. We believe that developing 12 technical standards in only 12 months was already a challenge, given the complexity and sometimes unprecedented nature of the issues to be dealt with. We believe that PEPP technical standards are important and that these may have a large impact going beyond the PEPP regulation. EIOPA's works on the PEPP could indeed set an example, create a reference, impacting ongoing and upcoming discussions at national level. We urge policymakers to allocate EIOPA the time needed so as to deliver high quality PEPP on the market. In the same time, any delay in the development of technical standards should not impact the timing for providers to properly implement the regulation.It is appreciated that EIOPA gave an additional 4 weeks for stakeholders to submit their response to the present consultation. However, it means that EIOPA would have less than 2 weeks to analyse the feedback received before its end of June Board of Supervisors (BoS) meeting, which we understand it the last one scheduled before the deadline set by the Regulation for EIOPA to submit its technical standards to the European Commission. There could be even less time considering rules of process implying that background documents should be circulated to participants a certain number of days prior to the meeting. Again, we urge policymakers to allocate EIOPA the time needed to ensure the quality of its technical standards.Consumers Representative:No. 5.1.1 Option 1.1: Detailed reporting No. 5.2.2 Option 2.2: Annual and limited quartely reporting No. 5.3.3 Option 3.3: Split between basic PEPP and alternative investment options	

Other Issues	The suggested technical standards do not sufficiently clarify some of the provisions laid down by the Regulation for the supervision of PEPP and cooperation between competent authorities. - Criteria for NCAs to assess PEPP registration: Based on the PEPP Regulation, the national competent authority (NCA) of the home member state is in charge of registering PEPP. The Regulation establishes the respective roles to be played by the home and host national authorities (NCAs), the conditions to be fulfilled to apply for registration, the different steps of the process as well as associated timing. However, neither the Regulation nor EIOPA draft technical standards establish/specify which criteria are to be considered by NCAs when reviewing PEPP applications. This would however be important in order to avoid distortions of competition, inconsistencies between categories of products and thereby ensure that the PEPP label is a sign of quality across Europe. - Implications of (re)introducing a product-based supervisory approach in the insurance sector: The agreed PEPP registration process challenges established supervisory practices. Under the current legal framework - in place since at least the 1980's - NCAs supervise providers/institutions, and not products (with exceptions in the securities sector, where products have to be "validated" before being put on the market). Therefore, the PEPP registration process is a complete unchartered territory for the insurance and banking sectors and it is unclear what the (re)introduction of product-based supervision will mean in practice. Guidance and clarification would be welcomed. - Practical consequences of withdrawing a PEPP registration: Article 8 of the PEPP Regulation introduces the possibility for competent authorities to issue a decision to withdraw a PEPP registration. The Regulation establishes under which circumstances it is possible to take such action, the respective roles of the competent authorities and of EIOPA, as well as the timing associated to the process. Article 15 of EIOPA draft ITS clarifies notification obligations but does not address the consequences of such decision. It is at this stage unclear what would happen to the accumulated assets when such a situation arises: would it translate in the PEPP converting back into a national personal pension product or would it require the forced sale of assets eg. savers getting back the surrender value? In the absence of such provisions, the diversity of practices across Europe could result in different approaches being followed and would therefore be particularly challenging when savers have their money invested into several sub-accounts. In any case, the interests of the PEPP savers must be safeguarded.In general, the insurance industry believes that there are too many crucial open questions in the Level 1 Regulation which are not in the scope, or not addressed, by EIOPA's proposed technical standards. This is not limited to the area of PEPP supervision. It will be crucial for providers to get further clarity before PEPPs are launched on the market so as to avoid compliance/legal risks.As a general point working with text in Excel is very difficult, particularly when trying to collate responses received from different groups and individuals. It might be worth cosidering the user friendliness of such a format when considering using this again.	