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ICI Global Response to EIOPA Consultation Paper

On

EIOPA's advice on the development of an EU Single Market for personal pension products

(submitted online, in a template format, on 26 April 2016)

General Comment:

Introduction

ICI Global is pleased to comment on the next step in EIOPA's work on the development of a pan-European personal pension product ("PEPP") – the "Consultation paper on EIOPA's advice on the development of an EU Single Market for personal pension products," published on 1 February 2016 ("February Consultation"). The February Consultation aims to accomplish a number of purposes: (1) it includes final advice on the development of a 2nd regime for PEPPs; and (2) it consults on whether and how these recommendations should apply to national personal pension products ("PPPs") in general. We also understand that the February Consultation will serve as the basis for EIOPA's response to the European Commission's Call for Advice from EIOPA on the Development of an EU Single Market for Personal Pension Products, dated 23 July 2014. Our comments focus on a legal framework for the development of PEPPs through a voluntary 2nd regime. We urge EIOPA and the Commission to make the PEPP work a priority rather than attempting to harmonise PPPs. A pan-European product with a cross-border distribution regime is the only way to ensure that a true single market for personal pensions could be created in a foreseeable future.

ICI Global strongly supports the PEPP development, and our responses to the EIOPA's 2015 consultation on the PEPP creation and to the survey on the PEPP's attractiveness are available, respectively, at https://www.iciglobal.org/pdf/15_icig_eiopa_pepp_consultation_ltr.pdf and https://www.iciglobal.org/pdf/15_icig_eiopa_pepp_survey.pdf.

Summary of ICI Global Comments on the February Consultation

With EIOPA's findings that many Member States are concerned with adequacy of retirement provision and the Commission's initiative to deepen and strengthen the capital markets, facilitating the PEPP development is a logical step.

We concur that the only workable policy option for creating, within a foreseeable time frame, an EU Single Market for personal pension products is through the introduction of a voluntary 2nd regime rather than through harmonisation of the PPP rules of all Member States.

On the product that could be offered within this 2nd regime, EIOPA's recommendation for a semi-standardised PEPP, with a defined set of optional elements, strikes the right balance between the benefits offered by standardisation (simplicity for the consumer and cost efficiency gains for the provider), with the flexibility needed to accommodate diverse consumer needs and Member States' specificities, as well as product innovation.

On the standardisation elements, we agree that a PEPP should have one default "core" investment option, with a few additional investment options. We also support EIOPA's view that standardised disclosures would benefit consumers and providers alike, and that PRIIPs KID is a good starting point, although some adjustments may be required. We concur that guarantees and fee caps should be optional.

On harmonisation of regulation between national PPP providers, we urge EIOPA and the Commission to make the PEPP work a priority rather than looking to harmonising national PPP rules, as these are highly divergent, and harmonisation is not realistic in the foreseeable future.

On taxation, we concur that mechanisms must be developed for addressing tax hurdles without requiring tax harmonisation. Many tax complexities, we submit, can be addressed by standardised robust tax information reporting to Member States' tax authorities and to retirement savers. This reporting, we submit, would help achieve EIOPA's objective of allowing PEPPs and PPPs to be offered to individual Member States' tax residents on a non-discriminatory basis.

About ICI Global

ICI Global is the international arm of the Investment Company Institute and it serves a fund membership that includes regulated funds publicly offered to investors in jurisdictions worldwide, with combined assets of US $18.4 trillion. As part of our mission, we have been studying retirement systems around the globe and facilitating the exchange of information on key challenges and innovative solutions, including through thought-leadership pension conferences in Paris (jointly with the Organisation for Economic Cooperation and Development (OECD) and the International Organisation of Pension Supervisors (IOPS), Geneva, Tokyo, Hong Kong, and Beijing. ICI Global publishes post-conference reports on its website to ensure the conferences' discussions surrounding retirement security are publicly available. See https://www.iciglobal.org/iciglobal/pubs/retirement.

Question 1: Would PPPs benefit from harmonisation of provider governance standards? What should be the basis for provider governance standards for PPPs? Do you agree with EIOPA's proposals?

To ensure that an EU Single Market for personal pensions could be created in the foreseeable future, we urge EIOPA and the Commission to make the PEPP work a priority rather than attempting to harmonise PPPs. See Question 7.

In respect of PEPPs, we believe that provider governance standards are adequately covered by existing sectoral rules. It would be counterproductive to layer an additional level of rules specifically for PEPPs provision.

Question 2: 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?

To ensure that an EU Single Market for personal pensions could be created in the foreseeable future, we urge EIOPA and the Commission to make the PEPP work a priority rather than attempting to harmonise PPPs. See Question 7.

In respect of PEPPs, similar to provider governance above, we believe that existing and developing product governance rules, primarily via MiFID II, are sufficient. These rules adequately cover the responsibilities of both product manufacturers and distributors.

Question 3: Would PPPs benefit from harmonisation of distribution rules? What should be the basis for distribution rules for PPPs? Do you agree with EIOPA proposals?

To ensure that an EU Single Market for personal pensions could be created in the foreseeable future, we urge EIOPA and the Commission to make the PEPP work a priority rather than attempting to harmonise PPPs. See Question 7.

Question 4: Would PPP[s] benefit from harmonisation in disclosure rules? What should be the basis for these rules? Do you agree with EIOPA's proposals?

To ensure that an EU Single Market for personal pensions could be created in the foreseeable future, we urge EIOPA and the Commission to make the PEPP work a priority rather than attempting to harmonise PPPs. See Question 7.

PRIIPs offers a harmonised regime for client disclosure. Notwithstanding deficiencies in parts of the PRIIPs proposal, we do not believe that an additional harmonised regime would be helpful to providers or consumers. Further consideration would need to be given to how the PEPPs disclosures could be sufficiently tailored to the PRIIPs KID format.

Question 5: Are you aware of any differences in prudential regimes that would lead to an unlevel playing filed amongst PPP providers? Do you agree with EIOPA's view not to add specific capital requirements for PPPs?

To ensure that an EU Single Market for personal pensions could be created in the foreseeable future, we urge EIOPA and the Commission to make the PEPP work a priority rather than attempting to harmonise PPPs. See Question 7.

Additional prudential requirements for PEPP providers are not necessary and could act as a barrier to PEPP provision. Prudential requirements are designed to mitigate balance sheet risk for the specific types of financial entities. Sectoral prudential requirements are the proper means for doing this and not an overlaid PEPP prudential regime.

Question 6: Are further supervisory powers – tailored to PEPP - necessary? Do you agree with EIOPA's proposals?

The current, effective, and long-established sectoral rules are sufficient.

Question 7: Do you agree with EIOPA's assessment of the policy options' impacts?

Annex I: Impact Assessment

We agree with EIOPA's assessment, as we discuss in more detail below.

Section 1. Procedural issues and consultation of interested parties

We agree that EIOPA has engaged in a thorough consultation process with stakeholders.

Section 2. Problem definition

In evaluating the impact of its proposed solutions, EIOPA has defined the problem as PPPs being governed by a wide range of European Directives (e.g., Solvency II, CRD IV and CRR, IOPR Directive and UCITS) and by the national legal frameworks. EIOPA's powers are only within the scope of two of these Directives, and the design of pension systems in Member States and the role of PPPs within those diverge greatly in the EU and the EEA (February Consultation at 78).

We agree that this definition describes a problem that impedes the development of an EU single market for PPPs.

Section 3. Objective pursued

EIOPA's recommendations are consistent with its objective to formulate technically sound ideas that would facilitate creation of a functioning single market for personal pensions.

Section 4. Policy options

EIOPA has considered two policy issues: (1) product standardisation, and (2) harmonisation or 2nd regime. (February Consultation at 79). On the product standardisation, EIOPA has considered a fully standardised PPP, a partially standardised PPP with a defined set of flexible elements, and a principle-governed PPP that leaves complete discretion on the PPP design to providers and Member States.

EIOPA's recommendation that a PEPP should have a combination of standardised and flexible features strikes the right balance between facilitating the need to adapt to consumers' needs and accommodate specificities of Member States (e.g., guarantee and fee cap requirements), whilst still enabling providers to benefit from economies of scale and cost-efficiencies.

On the standardisation elements, we agree that a PEPP should have one default "core" investment option (e.g., a life-cycle strategy), with a few additional investment options. See our response to the EIOPA's 2015 consultation on the PEPP creation at https://www.iciglobal.org/pdf/15_icig_eiopa_pepp_consultation_ltr.pdf.

We also support EIOPA's view that standardised disclosures would benefit consumers and providers alike, and that PRIIPs KID is a good starting point for developing standard disclosures, although some adjustments may be required. Standardised disclosures would help consumers compare products, including on a cross-border basis, and the comparability could increase competition. Standardised disclosures also would help the mobile workforce, as consumers would see the same information, regardless of the Member State they are in. Standardised disclosures would help providers minimise preparation and compliance costs.

We concur that guarantees and fee caps should be optional.

On harmonisation, EIOPA considered full harmonisation of PPP rules, or a voluntary 2nd regime (PEPP) that sits beside national PPP regulation. We agree that the 2nd regime is the best fit for implementing a partially-standardised PPP approach, as it avoids the need to harmonise pension rules in all Member States and it is likely to be more effective at overcoming issues (such as taxation) that currently impede cross-border activities.

To illustrate, we envisage that many tax issues arising from Member States' different requirements for retirement savings tax incentives can be addressed through standardised PEPP tax information reporting. Specifically, we envisage annual reporting to retirement savers' residence tax authorities, and to the retirement savers themselves, of contributions to, investment return on, and withdrawals from PEPPs. To the extent that a Member State provides tax incentives for PPPs, and the PEPP satisfies the applicable requirements, standardised reporting would ensure tax compliance and a level playing field. An annual statement showing contribution amounts, for example, would allow tax authorities to confirm that a retirement saver did not claim an excess contribution deduction without requiring that all Member States provide the same limit (or even permit tax-deductible PEPP contributions).

Section 5. Analysis of impacts

In summary, while full harmonisation and standardisation at a Member State level have theoretical benefits, they are hard to achieve, given the existing laws and practices.

Section 6. Comparison of options

See Answers to 4 and 5, above.