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From:	The President of the European Economic and Social Committee, Mr Georges Dassis
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
Subject:	Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council on a pan-European Personal Pension Product (PEPP)

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European Economic and Social Committee

ECO/440
Pan-European personal pension product – PEPP

OPINION

European Economic and Social Committee

Proposal for a Regulation of the European Parliament and of the Council on a pan-European Personal Pension Product (PEPP)
[COM(2017) 343 final - 2017/0143 (COD)]

Rapporteur: **Philip VON BROCKDORFF**

Consultation	Council of the European Union, 04/09/2017 European Parliament, 11/09/2017
Legal basis	Articles 114 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	05/10/2017
Adopted at plenary	19/10/2017
Plenary session No	529
Outcome of vote (for/against/abstentions)	132/4/4

1. Conclusions and recommendations

1.1 The EESC agrees with this proposed Regulation and its aim to boost investment across the EU but is unclear as to whether the investment arising from this initiative will remain within the EU.

1.2 The EESC welcomes any attempt to encourage EU citizens to make adequate provision for their retirement years. However, the EESC is also unclear as to the impact on labour mobility across the EU arising from the provision of pan-European personal pension products (PEPPs).

1.3 The EESC acknowledges that PEPPs are most likely to appeal to a limited number of groups, particularly, mobile professionals who work in a number of different Member States over their working life, and the self-employed. Every effort should be made to encourage the Member States to provide fair taxation on this type of product. Furthermore, the EESC points out that this initiative should not in any way be construed as lessening the relevance of either state or work-based pensions.

1.4 The EESC emphasises the need for consumer protection and risk mitigation for savers during the course of their working lives and on retirement. Greater clarity as to what is being guaranteed around the default option is also strongly recommended. Preferably, this issue needs to be addressed as early as possible by the Commission.

1.5 The EESC also emphasises the role of EIOPA[1] in monitoring the market and national supervisory regimes with a view to achieving convergence and consistency across the EU especially regarding the governance structure for PEPPs within any provider.

1.6 Given that the interactions between statutory, occupational and personal pensions are unique to each Member State, the EESC recommends that providers be able to adapt their PEPPs to national markets whilst respecting the need for convergence and consistency, as stated above. At the same time, the structure of national pension systems should be duly taken into consideration in order to prevent disruption and distorting competition.

1.7 The EESC is unsure whether PEPPs will make any difference in Member States that rely heavily on statutory pensions and where traditions of private retirement savings are weak. The role of Members States in promoting PEPPs, therefore, is deemed critical to supporting this initiative.

1.8 The EESC concludes that PEPPs should not appear as a mere extension of what is currently available to those choosing voluntary, private savings plans.

1.9 To enhance the attraction of personal pension products, the EESC underlines the importance of consumer protection. In this connection, the EESC seeks clarity as to whether the proposed 1.5% shall be applied as a flat percentage or subject to a cap on absolute values. The Commission should also examine waiving the fee for changing providers following a defined period of time, to the advantage of savers and future prospect of PEPPs. Moreover, the regulation must also lay down basic rules on access to the accumulated funds by the saver's heirs, in the event of the death of the saver.

1 European Insurance and Occupational Pensions Authority.

2. Commission proposal

2.1 It is estimated that only around 27% of the EU's 243 million citizens aged 25 to 59 years are currently saving for a pension. The European Commission considers that offering a pan-European personal pension product would encourage further savings. To meet this objective, on 29 June 2017 the European Commission published its proposal for a Regulation setting out a framework for a new pan-European personal pension product (PEPP). This proposal is fully in line with the EU's 2015 Action Plan on Building a Capital Markets Union (CMU) and is aimed at expanding the personal pension market to EUR 2.1 trillion by 2030.

2.2 Once adopted, the Regulation will allow pan-European personal pension products to be offered across Member States. The proposed Regulation provides the framework for an EU-wide voluntary system in parallel to existing personal pension schemes. PEPPs will not replace existing national pension structures. Instead they will complement existing personal pension schemes. However, PEPPs will be offered by different types of providers, namely insurers, asset managers and banks. They would be available for distribution and purchase online across all Member States.

2.3 As a key component of the CMU Plan, PEPPs would offer long-term investment and growth opportunities in an EU-wide capital market with capital flowing across the EU. This would boost business investment and provide capital for infrastructure projects. An increase in both private and public investment could help increase job creation across the EU.

2.4 The Commission proposal would facilitate the pooling of pension assets by providers leading to greater economies of scale and lower costs for providers besides increased competition as new providers enter the pensions market. With more providers than at present, savers would benefit from lower prices due to increased competition between providers, and possibly better returns to savers. It is however of crucial importance that savers are fully aware of the risks that they bear and the conditions attached to their PEPP.

2.5 The combination of increased choice, simplification, lower prices and possibly better returns to savers could encourage more individuals to purchase such products either to supplement pension entitlements if retirement income is expected to be inadequate or to provide retirement income in cases where individuals are not covered by a statutory pension scheme or an occupational pension scheme .

2.6 The Commission believes that PEPPs are likely to be particularly appealing to mobile workers who work in different countries across their working life and self-employed individuals. They could also create additional retirement-income options in those Member States where take-up of personal pension products is currently limited.

2.7 Whereas the proposed Regulation provides for standardised product features aimed at offering protection to consumers, the proposed framework would allow for greater flexibility in designing pension products.

2.8 The main features of the proposed Regulation stipulate that:

- Providers must be authorised by the European Insurance and Occupational Pensions Authority (EIOPA) and will be recorded in a central register, while national authorities will continue to supervise providers. The EIOPA will monitor the market and national supervisory regimes with a view to achieving convergence. This will oblige national authorities to supervise providers operating under different national frameworks (i.e. compartments). However, it is unclear how this would work in practice, considering in particular that personal pension products are largely defined at national level and that specific knowledge of each national market may be required for adequate supervision.

- Providers must observe transparency in costs and fees and meet other disclosure requirements in the form of a Key Information Document (before a contract is entered) and provide standardised periodic benefits statements.

- PEPPs will offer up to five savings options with a default low-risk investment option with a limited guarantee ensuring recovery of the capital investment. Consumers can waive the advice requirement in relation to the latter subject to providers enquiring as to the knowledge and experience of the saver.

- Individuals will have the right to switch providers domestically and cross-border every five years at a capped cost.

- Providers may invest in a range of options subject to the "prudent person" principle and the best long-term interest of the saver.

- PEPPs will allow continued contributions where members move between Member States and allow the transfer of accumulated assets without liquidation.

- A range of pay-out options will be available. PEPPs shall privilege annuities where the pay-outs to the policyholder are fixed and guaranteed.

- User-friendly complaint and dispute resolution procedures must be provided.

2.9 Finally, the Commission believes that a favourable tax environment for PEPPs is essential to the competitiveness and appeal of this new product, and recommends that in the case of PEPPs, Member States should offer the same tax treatment as comparable domestic products. Alternatively, they should offer the most favourable treatment where different personal pension plans are taxed differently[2].

2 C(2017) 4393 final.

3. **General Comments**

3.1 Personal pension products are not fully developed across the EU. Their role, however, could be fundamental to ensuring adequate retirement incomes for those workers where statutory and occupational pensions are weak or underdeveloped. Moreover, it is widely recognised that multi-pillar pension systems are the most effective way to ensure the sustainability and adequacy of retirement income.

3.2 The EESC, therefore, welcomes any attempt to encourage EU citizens to make adequate provision for their retirement years. The combination of ageing populations and falling birth rates could leave future generations footing the bill, unless people work for longer. In all Member States, but especially in those where the multi-pillar pension system is not fully developed and where a statutory pension scheme is the main provider, encouraging people to make personal savings for their retirement makes perfect sense.

3.3 The EESC also welcomes the objective of introducing PEPPs as a potential way to increase both private pension coverage and the allocation of funds to long-term investments. Increasing long-term savings could also have a positive impact on national economies.

3.4 The EESC is aware that Europe's pension landscape is currently fragmented. In some countries, citizens have several personal pension products to choose from; in others there are very few. A patchwork of European and national rules and divergent tax treatments has resulted in a limited transfer of financial assets across the EU due in part to the lack of portability of pension products across the EU over an individual's working life. Assuming the Commission projections are correct, PEPPs, together with other measures forming part of a wider package of reforms, would help increase savings from EUR 700 bn to over EUR 2 trillion by 2030. This would be a major boost for investment across the EU.

3.5 The EESC also notes that the Commission proposal aims to increase the number of providers. Increased competition across the EU should help reduce prices whilst providing a degree of reassurance about the quality of pension products being offered by insurers, investment firms, pension funds, asset managers and banks across the EU. Increased cross-border competition is hugely important and should bring about obvious advantages to citizens by way of reduced costs, product choice and pension portability.

3.6 The importance attached to safeguards as well as oversight by an EU-wide supervisory authority is also welcome. The EESC expects the EIOPA to play a key role in supervising providers and monitoring the market.

3.7 The EESC also highlights the importance of consumer protection through the provision of clear information to savers as well as capital protection under the default low-risk option; information on accrued savings; simplified administrative procedures and user-friendly procedures for complaints and out-of-court redress in cases of disputes between savers and providers; reasonable cost of switching from one provider to another; and protection to savers in the case of withdrawal due to, for example, disability or ill-health.

3.8 Since PEPPs would be portable, the EESC believes that the facility to switch providers across borders could contribute to enhancing labour mobility, although the extent to which this would increase labour market mobility is unclear.

3.9 The EESC agrees that this proposal could be important as far as the creation of new pools of capital are concerned. Up to now, the Capital Markets Union (CMU) with initiatives - such as liberalising rules for venture-capital funds and making it easier for small firms to list on stock exchanges - have had limited success. The EESC believes that PEPPs could go a long way towards creating a new source of funds that could be channelled towards investment.

3.10 The EESC also notes that this initiative is also relevant in a post-Brexit scenario. The CMU was conceived, at least in part, to bind continental Europe's markets closer to Britain's. As the exit of Britain looms closer, the need to develop a pan-European capital market has assumed greater importance than ever. The introduction of PEPPs will take place at a very opportune time, especially with top financial institutions switching business from Britain to other Member States. All of this could help ease the flow of capital across the EU with less reliance on bank finance.

3.11 The EESC acknowledges that PEPPs are most likely to appeal to a limited number of groups particularly, mobile professionals who work in a number of different Member States over their working life, the self-employed and those living in markets where personal pension products are not developed. However, the EESC understands that the Commission considers occupational pensions just as important, as underlined by the revised Institutions for Occupational Retirement Provision (IORP) Directive which lays down basic governance requirements for occupational pension funds. As was the case for the revised IORP, the aim of this proposed Regulation is also to improve governance and transparency, to promote cross-border activity and to develop further providers of PEPPs as long-term investors.

4. Specific comments

4.1 The EESC is of the view that PEPPs should not appear as a mere extension of what is available to those choosing voluntary, private savings plans. As such, the role of Member States in promoting PEPPs and the benefits of saving in one is critical. On the basis of the national treatment principle the Commission can require PEPPs to be afforded the same favourable tax treatment that Member States give to their own comparable national products. In those cases where the PEPPs product features do not match all the criteria required to grant tax relief to existing national pension products, the Commission invites Member States to provide the same tax relief as the one granted to these national pension products.

4.2 The EESC is unsure whether PEPPs will make any difference in Member States that rely heavily on statutory pensions and where traditions of private retirement savings are weak. As stated earlier, PEPPs are more likely to appeal to self-employed, mobile professionals whereas low income earners, workers with unstable and intermittent contracts of employment or seasonal workers are unlikely to afford a personal pension product.

4.3 For this reason, the EESC stresses the importance of incentivising citizens to start saving early during the course of their working lives through the provision by the Member State of tax credits. The EESC also recommends that citizens be provided with professional guidance on the setting of minimum investment periods to enable them to reap the benefits of long-term investment.

4.4 The EESC agrees with the Commission's proposals aimed at providing savers with up to five investment options, all with risk mitigation. The main challenge here is the divergence across Member States. National authorities will continue to supervise providers operating in their jurisdictions and therefore the role of EIOPA in monitoring the market and national supervisory regimes with a view to achieving convergence is deemed critical to provide a degree of consistency across Member States.

4.5 The EESC also agrees with the Commission's case for subjecting PEPP providers to appropriate regulation encompassing the long-term nature of products and their relevant specifications. The EESC recalls that the Solvency II Directive (2009/138/EC), the EU-wide insurance regulatory regime, aims to unify a single EU insurance market and enhance consumer protection by establishing an "EU passport" (single licence) for insurers to operate in all Member States if they fulfilled EU conditions. Solvency II was especially aimed at protecting customers with insurers being the main providers of personal pensions. The EESC is of the view that other financial institutions should be subject to the same stringent requirements to provide the same level of protection.

4.6 The EESC is of the view that more attention needs to be given to decumulation. Savers purchasing PEPPs will need significant support to answer questions regarding how much is needed to retire comfortably and the best way to draw down retirement assets. Lessons need to be gleaned from the experience of retirement decumulation approaches from occupational pensions to allow for advice on the best decumulation strategies. The EESC considers such strategies as intrinsic to pension products and those about to retire should be made aware of practices and rules on decumulation and protection mechanisms.

4.7 The importance of financial literacy cannot be stressed enough[3]. The EESC is of the view that the successful introduction of PEPPs will depend largely on whether the information provided is clear enough to enable savers to compare and contrast products and ultimately choose the product that best suits their needs. Moreover, this needs to be standardised across the EU given the importance of portability.

4.8 Pre-contractual information about the decumulation phase and the relevant tax treatment is considered highly relevant. Though the EESC agrees that the direct responsibility for providing high-quality information rests on providers, the role of national authorities remains critical. Pension products are inextricably linked to Member States' social policies and tax regime. This necessitates an information approach specific to the Member State and hence the role of national authorities in ensuring that the information reaching prospective clients is factual, usable and specific.

3 OJ C 318, 29.10.2011 p. 24.

4.9 The EESC considers that the arrangements on switching provider need to be made more attractive for consumers and afford them greater protection. The PEPP holder should at any time have the right to change provider. A related issue is the fee charged in such circumstances. The EESC, therefore, seeks clarity as to how the proposed 1.5% cap of the positive balance will apply. Though a 1.5% cap may seem reasonable on paper, unless there is also a cap in absolute terms, a flat percentage would result in savers being charged relative to the absolute value of savings. The EESC deems this unfair and would effectively result in limiting savers' switching options. The Commission should also examine waiving the fee for changing providers following a defined period of time, to the advantage of savers and future prospect of PEPPs.

4.10 The EESC sees a need for clear rules on access to funds accumulated in a PEPP in the event of the death of the saver. Those entitled to these funds should receive them no later than two months after submitting the necessary documents, and the product provider should not be able to charge any kind of fee.

4.11 As stated earlier, tax incentives play an important role in an individual's decision to defer consumption and save for retirement. The EESC agrees with the Commission on the role tax incentives could play in determining the success or otherwise of PEPPs. However, the EESC notes that it is up to the Member States to provide their citizens with access to all possible tax incentives.

4.12 As PEPPs are mainly targeted at mobile professionals and self-employed persons who can afford to contribute to a PEPP, the EESC is of the view that the provision by Member States of tax incentives discriminates against lower income earners that have no possibility to contract a PEPP. In the light of this, Member States therefore should carefully consider whether to provide such tax incentives.

4.13 The EESC acknowledges that pension products carry some risk given their long-term nature. However, a certain level of product sophistication would go a long way to reducing risks and uncertainties, while taking account of savers' needs and preferences. Reducing risk in the case of individuals with no previous experience of pension products is considered particularly important, and the EESC agrees with the range of options that would be made available to savers with one mandatory default investment option where the saver is allowed to recoup at least his or her nominal capital invested.

4.14 The situation where the level of consumer protection varies depending on the PEPP provider should also be avoided. The EESC is of the view that financial institutions offering long-term products with a retirement purpose should be subject to the "same risks, same rules" principle.

4.15 The EESC also points out that, as highlighted in the press release of *Better Finance* (European Federation of Investors and Financial Services Users)[4] of 9 October 2017, long-term personal pension products "are failing to provide for an adequate replacement income owing to insufficient and sometimes even negative long-term real (after inflation) returns". The responsibility of providers in providing savers with all the necessary protection and improved returns is crucial if PEPPs are to succeed. However, since most European pension funds are currently invested in bonds, the prospects for improved returns, at least in the short and medium term, do not appear too good.

4 Pension Savings: The Real Return, A Research Report by BETTER FINANCE, 2017

4.16 Finally the EESC observes that the roles of and interaction between statutory, occupational and personal pensions are unique to each Member State. These have shaped national pension markets for decades and it is not surprising to find such diverse pension products across the EU. Against this background, it is necessary for providers to be able to adapt their PEPPs to national markets.

Brussels, 19 October 2017

Georges DASSIS
The president of the European Economic and Social Committee