


Private pensions – EU rules to determine saver protection concern (Article 65.9, PEPP Regulation)

 Ref. Ares(2020)6974931 - 20/11/2020

COMMISSION DELEGATED REGULATION (EU) No .../. of XXX
supplementing Regulation (EU) No 2019/1238 of the European Parliament and of the Council with regard to product intervention

BdV comments, December 2020

As Germany's most important NGO of consumer protection related to private insurances (BUND DER VERSICHERTEN - German Association of Insured - based in Hamburg with about 45.000 members), we would like to thank the EC for the opportunity to publish comments on this consultation. Our organization is focused – by its statutes – on private insurances and on private pension products. We are registered in the EU Transparency Register (Identification number: 547660218656-93).

Our organisation is member of BETTER FINANCE, the European Federation of Investors and Financial Services Users, is the public interest non-governmental organisation advocating and defending the interests of European citizens as financial services users at the European level to lawmakers and the public (EU Transparency Register Identification number: 24633926420-79).

We fully approve this draft supplementing regulation on EIOPA's product intervention powers with regard to the future PEPP. We stress the crucial necessity that they are fully aligned with the already existing product intervention powers with regard to PRIIPs following to Commission Delegated Regulation (EU) 2016/1904 of 14 July 2016.

As EIOPA has clearly pointed out in its Technical Advice on PEPP intervention powers of 14 August 2020, it is "essential that product intervention powers are dynamic enough to enable EIOPA to deal with a range of different exceptional situations. Product intervention powers can be used, as a measure of last resort, where a significant PEPP saver protection concern, or a threat to the orderly

functioning and integrity of financial markets or to the stability of the whole or part of the financial system of the Union has materialised. In addition, product intervention powers must also have a preventive function and allow steps to be taken to address issues before they become widespread."


We support EIOPA's view "that the factors and criteria set out in Article 65(9) are not exhaustive and that inclusion of other relevant and related factors should be considered, taking into account and building from experience related to product intervention powers in other areas, in particular under the PRIIPs Regulation. (...) The specific situation and circumstances of the PEPP provider or PEPP distributor, including the financial situation, solvency and business situation is relevant in determining the existence of a significant PEPP saver protection concern as it can be the root cause of practices and activities that can lead to detrimental consequences. The inclusion of these factors and criteria also reflects the existing interlinkages between conduct of business and prudential risks."

The factors may refer to the degree of complexity or innovation of a PEPP and its particular features, the type of PEPP savers to which the PEPP is marketed or sold and their financial sophistication. Therefore the transparency, understandability and comparability of the KID, the PBS and the terms and conditions of the PEPP are particularly important. The factors and criteria can be linked to product features pertaining to, for example, the proposed investments, the risk-mitigation techniques, the cost structures, the provided leverage, the corresponding governance structures, and the PEPP provider's business model. In relation to the orderly functioning and integrity of financial markets, the factors may also refer to the size or the total amount of accumulated capital of the PEPP, the potential scale of detriment in the market and to the individual's savings, possible contagion effect and where relevant, the detrimental effect on the price formation mechanism in the underlying market.

Therefore we conclude that this draft regulation of the product intervention powers with regard to PEPP products, savers, providers and distributors is *pertinent, appropriate and proportionate* and should not be "softened" in anyway.

We fully support Better Finance's comment on this consultation, which therefore we attach.

Private pensions – EU rules on supervisory reporting (Article 40.9, PEPP Regulation)

 Ref. Ares(2020)6974919 - 20/11/2020

COMMISSION DELEGATED REGULATION (EU) .../... of XXX
supplementing Regulation (EU) No 2019/1238 of the European Parliament and of the Council with
regard to additional information for the purposes of the convergence of supervisory reporting

BdV comments, december 2020

As Germany's most important NGO of consumer protection related to private insurances (BUND DER VERSICHERTEN - German Association of Insured - based in Hamburg with about 45.000 members), we would like to thank the EC for the opportunity to publish comments on this consultation. Our organization is focused – by its statutes – on private insurances and on private pension products. We are registered in the EU Transparency Register (Identification number: 547660218656-93).

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We agree with this draft supplementing regulation. Nevertheless we stress some necessary specification on the goal of the information to be given following to draft article 1, as EIOPA has pointed out in its draft recital for the ITS on the format of supervisory reporting of 14 August 2020:

"An appropriate level of detail of the information is crucial for the implementation of a risk-based supervisory review process and product level supervision. (...) The framework ... should ... ensure consistent and efficient supervision by specifying the method, means, language and other details of exchange of information, including the scope and treatment of information to be exchanged. (...) Effective and efficient supervision requires that the exchange of information and the

cooperation between competent authorities take into account the nature, scale and complexity of the product, the availability and type of information and the most recent and relevant data. In order to ensure efficient and timely cooperation and exchange of information, standardised procedures and forms should be established."

That is why we propose to strengthen as well the precision as the obligation of the information to be given by this wording (draft article 1):

The additional information referred to in Article 40(1) to (5) of Regulation (EU) 2019/1238 shall include the following **OBLIGATORY AND COMPREHENSIVE INFORMATION AS MUCH STANDARDIZED AS POSSIBLE.**

In our comment on EIOPA's draft ITS on supervisory reporting in June 2020 (included in the EIOPA OPSG Opinion), we had already stressed that these information requirements should be respected "promptly" and not just "in good time" by the product providers - a wording which had been adopted by EIOPA.

We fully support Better Finance's comment on this consultation, which therefore we attach.