

Answers

to the

Consultation by Commission Services on legislative steps for the Packaged Retail Investment Products (PRIPs) initiative

European Association of Public Sector Pension Institutions

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Preliminary remarks

The European Association of Public Sector Pension Institutions (EAPSPI) represents 24 public sector pension schemes and associations from all over Europe. EAPSPI's statement is therefore limited to questions 9 – 12 dealing with the issue of whether pensions should be excluded from the PRIPs initiative.

EAPSPI supports the idea, expressed in the Green Paper on Pensions of 7 July mentioned in footnote 14 of this working document, to create a label “pensions” that is restricted to products with predefined characteristics.¹ A clear definition is helpful for a common understanding of the notion “pensions” and to draw a clear distinction between pensions and other financial products. In EAPSPI's point of view, pensions are basically different from other financial products, especially from those that are covered by the PRIPs initiative. Pensions are characterized by the following main features²:

- Coverage of biometric risks, such as longevity, invalidity and survivors' risks providing a regular old-age income by means of a regular stream of payments.
- Collective risk sharing with solidarity elements – often through collective agreements – instead of individual saving processes.
- Access for large parts of the population frequently through mandatory participation by law or by collective agreements.

EAPSPI's statement limited to the exclusion of pensions.

Basic differences between pensions and other financial products

¹ Section 3.4.1 of the Green Paper: “Closing gaps in EU regulation” n° (4)

² See also EAPSPI's answers of 8 November 2010 to the questions of the Green Paper, page 2, n° 1; downloadable from www.eapspi.eu / News

Question 9

Should pensions be explicitly excluded from the PRIPs initiative at this stage? Please justify or explain your answer.

With respect to the definition of PRIPs suggested under n° 2.3 of this working document, EAPSPI advocates excluding all kinds of pensions that are in line with the above suggested definition of pensions. Hence, EAPSPI supports the recommended exclusion of pensions, not only at this time, but on a permanent basis. Even though consumer protection is of paramount interest especially in the aftermath of the financial crisis, EAPSPI is of the opinion that the suggested PRIPs pre-contractual product disclosures would not be appropriate for pensions due to the following reasons:

- Pensions are characterised by the features mentioned above, such as coverage of biometric risks, collective risk sharing with solidarity elements and access to large parts of the population. Therefore, they are different from financial products in terms of the PRIPs definition. Due to these basic differences, the same rules cannot be applied to different products.
- The aims of pensions and PRIPs are different. PRIPs – like any other investment products – are designed to build up an individual's personal wealth. Pensions, however, have the specific aim to cover biometric risks, usually through a lifelong guaranteed payment. Therefore, notably DB-pensions, which are still frequent in the public sector, rather correspond to *“products where the precise rate of return is set in advance for the entire life of the product ... since the amount payable is not subject to fluctuations in the values of other assets”*, which should be excluded from the scope of the PRIPs initiative (page 7).
- Pensions and PRIPs have different target-groups. PRIPs, like any other investment products in general, are frequently bought by persons with a high level of earnings and with a high level of financial education. Pension products, however, are mostly designed for those persons that need lifelong overage to avoid old-age poverty; hence persons with a lower level of income.
- PRIPs and any other investment products are always bought on an individual decision whereas pension rights are acquired due to compulsory coverage by company or collective agreement or even by law.

Exclusion of all kinds of pensions

Pensions are basically different from financial products

Different aims of pensions and PRIPs

Different target groups

Different decision process

- Consumers' interests are already sufficiently protected both before and during the affiliation to a pension scheme. National legislation already foresees information obligations of the different pension schemes. In Germany, for example, the general (first pillar) scheme issues annual information about the level of accrued rights. The obligations of employers to deliver information about second pillar workplace pensions have been extended during the last years; similar to the information duties for insurance companies that offer pension products of the third pillar. In Sweden, as another example, consumers' interests within the scope of second pillar pensions are sufficiently protected by the National Insurance Contracts Act, which covers pre-contractual disclosure of information as well regular disclosure of information.
- Consumer protection is furthermore guaranteed by means of current supervision of the pension institution, insolvency protection in at least some countries or the ultimate responsibility of the employer in the case of workplace pensions.
- An EU-wide harmonized framework – similar to the PRIPs initiative – would not be feasible for pensions due to the diversity of pension plans across Europe that has been admitted in the introductory part to these questions (page 9).

Already sufficient legal protection of participants in pension schemes

Additional protection inter alia by supervision, insolvency protection

Diversity of pension plans impedes harmonized approach

Question 10

Should annuities be treated in the same fashion? Again, please justify or explain your answer.

Depending on whether the choice of investing in an annuity is based on an individual decision or regulation by national law or collective agreement, the information asymmetry will be significantly different. With regard to pensions, and especially valid in the context of public sector pension institutions, national law, social partners and current supervision are to a high degree counteracting forces to the presence of information asymmetries.

Furthermore, in some Member States there is no basic difference between pensions and annuities. Pensions and annuities administered by IORPs and subject to the IORP-Directive have to fulfil a very high transparency standard, are supervised by both local and European Financial Market Authorities, have to comply with wide information requirements for their beneficiaries and – last but not least – have to invest the capital in line with the IORP-directive under the principles of diversification and risk minimizing according to the prudent person principle.

The purpose of IORPs is to enable employees to participate a pension scheme, generating pensions in form of annuities. The product in general **is not** to offer a certain more or less defined investment package, which is sold to individuals.

Different starting point:
Individual decision or
legal basis / collective
agreement

IORP-Directive as well
as national legislation
already foresees
disclosure requirements

Different purpose of
IORPs and their
products

Questions 11 and 12

Do you have any comments on the proposed manner of achieving this exclusion?

The development of a specific exclusion should not only consider national law, but also take into account those products where the provision of collective agreement accords particular benefits for the purpose of retirement planning. In Sweden, for example, the detailed product design of unit link-insurance and mutual investment funds as vehicles for investments of second pillar pension contributions can be in a more or less detailed way ruled by collective agreements. Hence, it is important that any exclusion will also take into account those situations where specific product features are a result of a collective agreement since one has to presume that the social partners have acted in a responsible way by providing a safe and optimal product for the purpose of retirement planning.

Do you agree that variable annuities might need to be treated as a special case? If so, how should these be defined, and how do you think they should be addressed?

As already stated in the preliminary remarks as well as in the answer to question n° 9, pensions are of collective nature. Due to various security mechanisms, collective products are principally safe products, which require a less sophisticated information level. Variable annuities being used for many different objectives and therefore being of a rather complex nature, they should therefore be treated in a way that correspond to their specific nature.

Exclusion should not only consider national law but also rules in collective agreements

About EAPSPI

The European Association of Public Sector Pension Institutions (EAPSPI) is a group of 24 public sector pension schemes out of 16 European countries. The members and observers are institutions from the following countries: Austria, Belgium, Denmark, Finland, France, Ireland, Italy, Germany, the Netherlands, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland and United Kingdom. These institutions cover the special basic schemes for civil servants or the supplementary schemes for public employees. They are responsible for more than 28 million active members in the public sector and pensioners.

The main purpose of EAPSPI is to enable their members to improve the reciprocal knowledge of their institutions and that of the social organisation of their respective countries. Furthermore, the association intends to take part in the construction of a social Europe and, in this context, to study the consequences of the opening up of Europe, particularly regarding free movement. In this context, EAPSPI analyses ways and means of improving services offered to their clients (pensioners, active members or employers). To achieve this purpose, the association mainly intends to promote exchanges of expertise and information, involving also the area of products and services linked to retirement and to position itself as a pension expert, in order to develop relations and interact with European institutions and other international organisations.

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