Comments Template on CP EIOPA's advice on the development of an EU Single Market for personal pension products (PPP)		Deadline 26 April 2016 23:59 CET
Name of Company:		
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Confidential/Public
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Reference	**Comment**	
General Comment	The Society of Actuaries in Ireland ("SAI") agrees that PPPs would ultimately benefit from harmonisation, particularly across product governance, distribution and disclosure of information. We broadly agree with EIOPA's proposals in these areas, with an exception noted in the area of product governance. In our view, the product governance proposals (Annex VIII) around the onus on the provider to identify and mitigate the risk of "product related circumstances" giving rise to consumer detriment need clarification. Depending on the interpretation taken, this requirement may prove onerous, if not impossible, for	

	providers to implement. While we largely agree with the sentiments in the proposals around additional supervisory powers for the PEPP, we do not support the preparation of a “commitment memorandum” as envisaged. The “pre commitment” requirements around expected performance and the obligation on providers to explain potential remedial actions in the uncontrollable event of market downsides are likely to prove very difficult / costly to implement, with knock-on implications for pricing and the attractiveness of PPPs. In terms of the proposals around online, non-advised sales, we would caution that due cognisance should be taken (among other things) of the complexity arising from the varying taxation, social and labour laws. We agree with the assessment that more detailed analysis will be required as to the most appropriate supervisory tools to enable national supervisors ensure PEPP’s investment approach is monitored and value for money assessed. We would point out that in Ireland, for example, “PRSA Actuaries” provide annual certification to the regulator regarding compliance by certain pension providers with regulations in respect of default investment strategies and charges for certain personal pension type vehicles. Pending further analysis, the “PRSA Actuary‟ model may represent a viable alternative to deliver on at least some of the envisaged independent watchdog tasks outlined in the consultation document.	

	We agree with EIOPA's overall impact assessment which concluded that a standardised 2nd regime sitting beside national PPP regulations would be a better option than attempting to force standardisation on existing national regimes. Notwithstanding comments above, we envisage significant challenges around the potential demand for a PEPP particularly in countries with well-developed occupational pension scheme and personal pension markets. We anticipate that the absence of harmonisation of tax social and labour laws is likely to represent a significant challenge to the development of a standardised, simplified PEPP including the standardisation of a default fund. A default fund incorporating lifecycling or guarantee elements will of necessity vary by jurisdiction even in the accumulation stage (e.g. the last 10 years) where retirement ages and drawdown options differ. We also encourage consideration of the wider environment and its impact on retirement provision. The product/vehicle is a small element of the overall equation and a new 2nd regime product on its own is unlikely to have the effect of materially improving the level of provision for future retirement income.	
Q1	Although PPPs provided by Life Assurance Companies cover the majority of PPPs (by assets under management) available in the EU market, there is a variety of other providers of PPP products operating in the European personal pensions market. A variety of different types of providers will be conducive to the development of a well functioning	

	single market for personal pensions. The features of existing governance regimes vary significantly in some aspects across the various industry sectors. It is our view that many providers (and in particular entities which are not Life Assurance Companies) would face significant difficulties if required to meet harmonised governance rules in certain areas e.g. own solvency and risk self assessment and capital requirements. Harmonisation may therefore act as a barrier to entry. However, harmonisation of other aspects of provider governance e.g. fit & proper persons, risk management, remuneration policy and outsourcing, is likely to be of benefit in creating consistency of governance across providers. We agree with EIOPA’s suggestions to (i) follow the sector specific requirements on the use of depositaries to reflect the provider’s characteristics and (ii) that those PPP holders that are not protected by a depositary should be able to rely on the provider being subject to the relevant rules under Solvency II or CRD IV/CRR. In terms of a basis for provider governance standards for PPPs, we agree with EIOPA’s proposal to use existing governance requirements across the spectrum of providers as a start point.	
Q2	We agree that PPPs would benefit from harmonisation of product governance rules,reflecting the high-level principles specified in the ESA Joint Paper on Manufacturers’ Product Oversight & Governance Processes. We also believe that PPPs (at both provider and distributor levels) would benefit from harmonisation broadly in line with the more detailed Provider and Oversight Governance (“POG”) requirements proposed in Annex VIII, albeit with one exception noted below.	

	We broadly agree with EIOPA's proposals, but note that the proposed POG requirements state (in Annex VIII) that "should the provider identify product-related circumstances that give rise to the risk of consumer detriment during the lifetime of a product, the provider should take appropriate action to mitigate the situation and prevent the re-occurrence of such detriment". It is not clear which "product-related circumstances" potentially giving rise to consumer detriment are envisaged here. We note that, by their very nature, PPPs will expose consumers to financial risks resulting from market fluctuations in the underlying asset holdings. Hence, this requirement to mitigate and prevent the re-occurrence of consumer detriment could prove onerous, if not impossible for providers in certain circumstances, such as in the event of a stock market crash.	
Q3	We agree that sectoral rules under MIFID and the IDD should be applied to PPPs and PEPPs. These rules provide for a strong level of consumer protection and information provision. The existing regulations should be examined to ensure they are fit for purpose for personal pension vehicles. In particular: • pensions markets require a greater level of regime knowledge than normal retail investment sales, primarily because they involve - both accumulation and decumulation phases, and - detailed taxation and social welfare system interactions. The level of qualification, experience and knowledge required to engage in advised PPP/PEPP sales should reflect the greater level of complexity in the regime.	

	• ongoing support and information is crucial for many consumers, particularly in the accumulation phase, but also in the decumulation phase. In relation to online, non-advised sales, which are proposed and favoured in the consultation (particularly in the context of the envisaged highly standardised PEPP, where the default option can be classified as ″non-complex‟), we caution that the following elements should be fully considered and reflected in the regime • Pensions regimes and their interaction with taxation and social welfare provision can be complex, particularly in terms of decumulation options. Non-advised transactions run the risk of incomplete information around these aspects and failure to identify pitfalls and opportunities. It will be important to address the complexity of the regimes in requirements for non-advised transactions. • The paper proposes restricting non-advised sales to non-complex investment instruments. While certain instruments may be regarded as "non complex‟, these may nonetheless be unsuitable for the target market e.g. investment in a straightforward cash fund will not achieve the aim of protecting the purchasing power of pension savings over time. In this example, it will be important for the consumer to consider the potential erosion of purchasing power. More generally, default options which are low risk or risk free may lead to negative real returns which are not in the interests of the consumer and will erode the purchasing power of assets in	

	retirement. A "non-complex", default investment strategy for a standardised PEPP may provide difficult to achieve in itself due to a number of factors that cannot be standardised at European level. Examples include the permitted entry age into decumulation (due to its connection with national, social and labour law) and draw down options such as the proportion of the retirement fund which can be taken as tax free lump sum and pensionable income (due to interaction with taxation law). The implications are that effective default investment strategies incorporating lifecycling or guarantee elements may prove difficult to standardise to any significant degree due in particular to the varying target mix of retirement benefits and associated "matching" assets. A default fund incorporating lifecycling or guarantee elements will of necessity vary by jurisdiction even in the accumulation stage (e.g. the last 10 years) where retirement ages and drawdown options differ.	
Q4	We agree that PPPs and PEPPs would ultimately benefit from harmonisation in disclosure rules. Standardisation of disclosure would appear to be more straightforward for PEPPs given the proposed standardisation of the PEPP product itself. We agree that disclosure should be based on the PRIIPS KID as a starting point, but adapted to consider specific aspects of the PPP regime, e.g. decumulation, investment options.	
Q5	There are material differences in regulatory regimes with the key differences arising between (i) banks, (ii) insurers, and (iii) fund/asset managers. These requirements could lead to an unlevel playing field,	

	e.g. requiring a depositary for a UCITS or Solvency II capital requirements for a unit-linked fund. We agree with EIOPA's view not to impose additional capital requirements for PPPs. Where guarantees and/or biometric options are included, though, appropriate capital should be held by the providing institution as is required under existing regimes	
Q6	We consider that further supervisory powers, reflecting the nature of the PPP product, are necessary, particularly for product disclosure, both at product commencement and on an ongoing basis. We consider that the current provider authorisation and supervisory regime should be used, with cross-border marketing available to those who provide services under EU harmonised rules. We agree that more detailed analysis will be required on the most appropriate supervisory and disclosure tools to enable national supervisors ensure PEPP's investment approaches are monitored and value for money assessed. In this regard, the "PRSA Actuary"[1] model, which operates in the Irish market, could be a useful model to consider. These actuaries are required to provide annual certification to the regulator regarding compliance by certain pension providers with regulations in respect of default investment strategies and charges for certain personal pension type vehicles. The role has been a successful element of the pensions regime in Ireland and has been relied upon by the local competent authority. We propose that national supervisory	

	authorities, using a "PRSA Actuary" type of regime to fulfil some of their requirements, could take on the role of monitoring PEPPs/PPPs. We do not support the preparation of a "commitment memorandum" with all the associated commitments as described in the consultation document . The disclosure regime should be consistent with and build on the PRIIPS KID. This should be supplemented by annual updates which include disclosure of actual past performance and revised expectations. [1] PRSA: Personal Retirement Savings Account, first introduced in Ireland through the Pensions (Amendment) Act 2002. A PRSA is a form of PPP, designed to be portable between employers.	
Q7	We agree with the impact assessment set out in Annex I.	