

**Comments Template on Consultation Paper on the creation of a  
standardised Pan-European Personal Pension product**

**Deadline  
05 October 2015  
23:59 CET**

Name of Company:	Ministry of Finance of the Netherlands	
Disclosure of comments:	Please indicate if your comments should be treated as confidential:	Public
<p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> <li>⇒ Do <b>not</b> change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool</li> <li>⇒ Leave the last column <u>empty</u>.</li> <li>⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>.</li> <li>⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below.</li> </ul> <p><b>Please send the completed template, in Word Format, to <a href="mailto:CP-15-006@eiopa.europa.eu">CP-15-006@eiopa.europa.eu</a>. Our IT tool does not allow processing of any other formats.</b></p> <p>The numbering refers to the Consultation Paper on the the creation of a standardised Pan-European Personal Pension product (see Annex 3 of consultation paper)</p>		
<b>Reference</b>	<b>Comment</b>	
General comment	<p><u>Introduction</u> The Netherlands thanks EIOPA for its work on a standardised Pan-European Personal Pension Product (PEPP) and welcomes the opportunity to react to the consultation paper. <b>We will limit our reaction to bringing forward our key policy issues as this detailed questionnaire on product design misses an essential preceding step in our view, i.e. an in-depth analysis of the roots and causes of the actual problem that EIOPA envisages to address with a standardised product</b> (or further research as to why a PEPP would provide opportunities the current status quo can not foresee in). Without such an analysis we remain as yet unconvinced of the necessity or desirability of PEPP. Providing a well founded reaction to the consultation in our view is only possible after having established how a PEPP can contribute to the objective of encouraging more European citizens to save for an adequate retirement income. Nevertheless, we have some general observations to share.</p>	

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Scope of a PEPP

**The Netherlands would like to ask EIOPA to clarify the scope of the PEPP. In our view, a PEPP could solely be considered as a third pillar pension product that provides an individual and voluntary choice for a pension product and not as part of member states' social security system or as part of the occupational second pillar pension system. In the Netherlands, as in many other European countries, the provision of second pillar pensions is the prerogative of social partners (employers and employees), who as part of their wage negotiations also determine the pension contract. Since the pension contract in the second pillar is tailored to the needs of the participants in a specific firm or sector, a harmonised pension product would not make any sense and would be unacceptable for the Netherlands.**

Value added of a PEPP

**The Netherlands would like to ask EIOPA to further substantiate the ability of a PEPP to facilitate cross-border provision and competition and stimulate 3<sup>rd</sup> pillar pension savings.**

While the Netherlands subscribes to the objective of encouraging more European citizens to save for an adequate retirement income, it is not yet clear how a PEPP will contribute to this objective.

With regard to cross-border provision and competition, currently 94% of the market for personal pension products falls under an harmonised European legal framework in the form of the Solvency II, the CRD or the UCITS/AIFM directives. This legislation already provides for harmonised prudential rules and consumer protection and thereby in principle facilitates the cross-border provision of third pillar pension services.<sup>1</sup>

To the extent that differences in regulatory requirements across member states remain, research by EIOPA<sup>2</sup> indicates that taxation, social law as well as impediments in the area of harmonisation of contract law appear to be the most significant hurdles in developing a single market for third pillar pension provisions. **As both taxation and social regimes remain areas of full national competence, the value added of a PEPP (which is supposed to be**

<sup>1</sup> In particular the Solvency II Directive will significantly improve will significantly improve the hurdles regarding the cross border provision of life insurance PPPs, as acknowledged by EIOPA in its paper 'Towards an EU-single market for personal pensions' [https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-029\\_Towards\\_an\\_EU\\_single\\_market\\_for\\_Personal\\_Pensions-\\_An\\_EIOPA\\_Preliminary\\_Report\\_to\\_COM.pdf](https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-029_Towards_an_EU_single_market_for_Personal_Pensions-_An_EIOPA_Preliminary_Report_to_COM.pdf)

<sup>2</sup> Paper 'Towards an EU-single market for personal pensions' [https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-029\\_Towards\\_an\\_EU\\_single\\_market\\_for\\_Personal\\_Pensions-\\_An\\_EIOPA\\_Preliminary\\_Report\\_to\\_COM.pdf](https://eiopa.europa.eu/Publications/Reports/EIOPA-BoS-14-029_Towards_an_EU_single_market_for_Personal_Pensions-_An_EIOPA_Preliminary_Report_to_COM.pdf)

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**a highly standardised, simple and easily recognisable product instead of a tailor made product) is questionable and deserves further analysis.** Even when product characteristics are harmonised, one would expect the product to encounter the same main impediments/difficulties that existing personal pension plans already encounter.

Second regime considerations: arbitrage and level playing field implications

In the consultation paper the authorisation of a PEPP by a national competent authority gives a PEPP-operator a product passport in the entire European Union and leaves open the applicable regulatory regime for the PEPP. **The Netherlands is of the opinion that further analysis is needed on how to prevent an unlevel playing field and regulatory arbitrage if the same product can be executed by different operators, adhering to different national and/or European prudential regimes.**

To the extent that the second regime adds substantive regulatory requirements to the executor of a third pillar product, the attractiveness of a PEPP may be reduced. Moreover, the complexity of a second regime can prove burdensome for providers (and supervisors).

Fiscal treatment

The consultation paper notes that a PEPP should receive beneficial treatment where these benefits are also granted to existing 'national' PPPs. As important questions with regards to the scope, the product design and regulatory regime are yet to be addressed, it would be too early to make a first assessment of the potential national fiscal treatment of the PEPP. **Nevertheless, the Netherlands would already in this stage like to stress that the tax treatment of pension-related products is a competence of the Member States and is a matter of national policy discretion.**

Question 1		
Question 2		
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Question 6		

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