A Proposal for a New Pan-European DC Occupational Pension Vehicle:

The «PEOP»

By Dr. Francesco Briganti[1] & Dr. Sebastiaan Niels Hooghiemstra[2]

The revision of the pension fund directive, known as IORP II, does not seem to have achieved the desired result of facilitating cross-border activities. Instead, Member States have «gold-plated» the Directive further frustrating cross-border activities. Recently, the Cross Border Benefits Alliance-Europe (CBBA-Europe) came with a proposal to introduce a new pan-European DC Occupational Pension vehicle called the «PEOP».

Already since 2003, current European legislation allows pension funds (IORPs) to set up cross-border activities. Indeed, according to the EU Directive "IORP I" that was replaced by "IORP II" in 2016, an IORP based in a given EU Member State is allowed to manage pension arrangements (i.e. pension plans/schemes) located in other Member States.

However, while the IORP is subject to the (prudential) legislation of the Member State of the IORP (home state), the rules on the pension arrangement are subject to the national legislation of the Member State where the employers and workers are based (host state). Furthermore, the authorization process of every IORP willing to operate on a «cross-border basis» requires the involvement of both the «home» and relevant «host» Member States. The current result is that after 17 years there are only 73 active «cross-border IORPs» of which 50% are in place between Ireland and the UK.

In the light of the above, CBBA-Europe proposes a Pan-European DC Occupational Pension vehicle called the «PEOP» that will be subsequently discussed.

PEOP as an EU Regulation

The proposed PEOP would be directly designed and regulated by EU legislation and would seek to overcome the existing obstacles to cross-border pensions. Given the degree of «gold-plating» and corresponding issues with the IORP I/II European passport, it would be logical that the PEOP initiative would be established as a Regulation, similarly to the recent Pan-European Personal Pension Product (PEPP) Regulation.

The new PEOP, powered by an EU label, would therefore (almost) automatically operate in all the states of the European Economic Area (EEA) under the same conditions. Under the new EU legal framework, only a limited degree of options would be left to the individual Member States to be regulated, including, amongst others, the:
- level of pension contributions;
- pay-out options, such as lump-sums, annuities and draw-down plans;
- retirement age;
- possibility of earlier withdrawals; and
- taxation.

Defining the PEOP: An Optional Pan-European Occupation DC Pension Vehicle

The PEOP would be an (i) optional, (ii) funded defined contribution (DC) vehicle (iii) with an occupational retirement objective that (iv) focusses on the accumulation phase.

Optional Nature – PEOP

The vehicle would «co-exist» and be optional to any national IORPs. Unlike the IORP II Directive, existing IORPs would not be obliged to convert themselves into PEOPs nor would the PEOP initiative impose changes to any current national legal framework for IORPs in place in Europe. Instead, the PEOP would serve as a flexible and «optional» European framework that would be, in particular, attractive for both large employers (multinationals) operating in multiple European Member States, and for pension providers to offer a pension solution to several companies (SMEs), i.e. a multi-employer pension platform. PEOPs would offer advantages of exploiting economies of scale in terms of, for example, asset management and pension fund administration.

Moreover, cross-border portability would always be offered to both mobile workers covered by the same PEOP, and between different PEOPs in case of a switch from one PEOP provider to another. Similar to the PEPP, cross-border portability would be facilitated through national sub-accounts of the PEOP, so that a worker moving from a EU Member State to another would transfer his/her money to the national sub-account of the new Member State of destination.

Finally, the PEOP Regulation would not deal with the «compulsory membership question». Member States will remain free to decide whether PEOPs may compete with national pension funds managing mandatory (occupational) pension schemes or not.

Funded DC Vehicle

The vehicle would be funded. In other words, contributions paid by employers and/or employees will be invested. Furthermore, the vehicle would have a «DC» nature. Each member would invest through a limited amount of investment options and, in principle, bear full investment risks thereof. Like with the PEPP, a couple of guaranteed or semi-guaranteed investment options should be offered by the PEOP that would include an insured guaranteed option or a capital recoup option built through risk-mitigation techniques.

The insured or capital recoup investment options might represent the default PEOP options, i.e. the «basic PEOP». Unlike with the PEPP, no fee-caps should be provided by the PEOP Regulation on costs of administration and investments. PEOPs could work either through individual (member) accounts (IDC), or on a collective basis.

Occupational Retirement Objective

The PEOP would have an «occupational retirement objective". In other words, workers will be enrolled into a PEOP only in case their employer decided to arrange its occupational pension through such a vehicle. Nevertheless, the «DC» nature would allow employees to transfer their assets from one PEOP to another. Such transfers would be probably easier if the PEOP would manage individual DC accounts. Nevertheless, collective PEOPs might also be able to facilitate these transfers, as all contributions and notional gains on investments will be recorded and tracked for every member.

Focus on the accumulation phase

The PEOP focusses on the «accumulation phase». Upon reaching the retirement age stipulated by national Member State laws, members would be able to choose from a variety of pay-out options, as available under the legal framework of the national Member States they are subject to.

Regulating the Governance of PEOPs: leaning on existing sectoral EU legislation

The PEOP would be (partly) leaning on existing EU legislations in the pension field, namely IORP II and the PEPP regulation.

Similar to the PEPP, PEOP providers (i.e. the entities allowed to set up PEOPs) could be, amongst others, fund/asset managers, insurance companies and IORPs.

Due to the occupational pension nature of the PEOP, its management board could be (optionally) made up of employers and members/beneficiaries. The board would be subject to the similar conduct of business rules as governing boards under IORP II, including a «fit» and «properness» test for board members. In any case, national legislations will be not allowed to impose further requirements to PEOPs operating in their territories. Indeed, in order to work smoothly and harmoniously across Europe, PEOPs should be not obliged to adapt themselves to different local requirements.

In general, the PEOP would, in terms of governance, allow for several business models. A PEOP provider could, for example, decide to provide most of the PEOP-related services «in-house». Similar as under IORP II and the PEPP legislations, several functions, such as asset management, could be outsourced to other institutions, including fund managers, asset managers or (life) insurance companies, that are already regulated under sectoral EU legislation. As mentioned above, PEOP providers would also be allowed to act as a multi-employer platform, allowing small employers and their employees to benefit from the platform's economies of scale in terms of costs and efficiency.

Under all of the PEOP models mentioned and, in addition to guaranteed investment options to safeguard accrued capital, also the coverage of biometric risks could be offered according to the promoters' needs.

A Pensions Benefit Statement (PBS) modelled in line with the IORP II Directive would need to be provided during the accumulation phase. Furthermore, additional appropriate annual information would need to be given to PEOP members. Finally, appropriate information similar to the PEPP would also need to be provided to allow members to make an appropriate choice in terms of pay-out options. Member States should, however, not be allowed to impose additional information requirements on the national level.

Taxation of the PEOP

Differences between Member States related to the deductibility of contributions and the taxation of investment returns and pension benefits could possibly pose a problem for PEOP holders. Politically, it is hardly feasible to harmonize the direct taxation field. Nevertheless, «soft law» in the form of a tax recommendation, similar as issued for PEPPs, could ask Member States to grant equal fiscal treatment to the PEOP as to IORPs within their domicile. To mitigate costs, the EU could set-up a «tax hub» in which Member States could provide specific information or operational services with respect to relevant tax laws for the PEOP to operate.

Conclusion

The PEOP would be very similar to a PEPP. It could work on a defined contribution basis, provide a limited number of investment options and would, amongst others, facilitate portability and economies of scale. The PEOP could, thus, be attractive for large corporates, but would also allow for multi-employer PEOPs set up by institutions, such as insurance companies, asset/fund managers or IORPs, which would allow it to be used by small- and medium size enterprises as well.

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Climatopragmatique

How to make the climate great again

Par Coline PAVOT, Responsable de la Recherche Investissement Responsable - La Financière de l'Echiquier

Alors que 2020 se classe parmi les trois années les plus chaudes jamais enregistrées, la thématique du climat a été ces derniers mois de toutes les annonces : des élections américaines aux plans de relance européens, en passant par les engagements de neutralité carbone des principales entreprises pétrolières.

Toutes ces annonces ont un objectif commun : mobiliser la société dans son ensemble pour nous permettre de vivre, à horizon 2050, dans un monde dont l'augmentation de la température reste inférieure à 2°C. Face à ce défi de taille, la finance a un rôle majeur à jouer pour diriger, de façon pragmatique, les capitaux vers les entreprises qui façonnent le monde de demain.

Financer les apporteurs de solutions

Pour atteindre les objectifs de l'Accord de Paris sur le climat, on pense naturellement au financement des entreprises qui apportent des solutions aux problématiques environnementales. Ces solutions peuvent générer un impact environnemental direct - à l'image de NEOEN, producteur français d'énergies renouvelables - ou indirect - comme DASSAULT SYSTEMES dont les logiciels permettent de concevoir des véhicules et des bâtiments plus efficients. C'est cet axe de financement que privilégient les récents plans de relance post-Covid qui attribuent des capitaux aux secteurs de la rénovation énergétique, des énergies vertes ou encore de la mobilité durable.

Financer les pionniers de tous les secteurs

Mais comment se positionner face à des entreprises plus traditionnelles comme les sociétés hôtelières, textiles ou encore les banques ? Dans tous ces secteurs, il existe des entreprises ambitieuses et pionnières qui ont pris des engagements climatiques forts, afin d'aligner leur modèle économique avec un monde à 1,5°C.

Souvent identifiables par leur engagement auprès des *Science Based Targets*[1], elles font figure d'exemple dans leurs secteurs au sein desquels elles ont le pouvoir de faire bouger les lignes. Pour mener à bien ce double projet, elles ont besoin d'être soutenues et accompagnées par des investisseurs engagés à leurs côtés dans la durée.

Financer les oublies de la transition

Dans la course climatique, certaines entreprises sont souvent mises à l'écart par les investisseurs, comme par exemple celles du secteur des énergies fossiles. Faut-il les exclure et les laisser aux mains d'investisseurs peut-être moins regardants… ou investir et s'engager à leurs côtés pour accélérer leur transition ? C'est le dilemme de tout investisseur responsable.

La seconde option commence à prouver son efficacité. TOTAL a ainsi revu à la hausse ses engagements climatiques à la suite des travaux du Climate Action 100+[2] - une initiative d'engagement collaborative dont le but est d'inciter les plus grands émetteurs de gaz à effet de serre à réduire leurs émissions - ainsi que sous l'influence du dépôt d'une résolution environnementale de certains de ses actionnaires lors de la dernière assemblée générale du groupe.

Si l'objectif est d'accompagner la transition de l'économie dans son ensemble, pouvons-nous nous passer de ces acteurs ? A La Financière de l'Echiquier, nous sommes convaincus que nous avons un rôle à jouer auprès de ces entreprises, à condition qu'elles prennent des engagements sérieux et sincères !

Face à ce constat et à l'urgence d'agir, nous lançons notre deuxième fonds à impact, pour contribuer à la transition climatique en Europe en investissant dans des entreprises responsables et engagées. Cette nouvelle stratégie est le fruit de 18 mois d'un travail accompli en partenariat avec un expert indépendant en ingénierie environnementale, *I Care & Consult*. Ce fonds propose une réponse pragmatique et innovante aux enjeux du changement climatique, en finançant ces trois profils d'entreprises, dont la maturité climatique est évaluée et «monitorée» grâce à une méthodologie propriétaire. Une solution d'investissement qui s'inscrit à La Financière de l'Echiquier dans le cadre d'un vaste projet d'entreprise centré sur la prise en compte des risques climatiques.

1) Initiative mondiale regroupant des acteurs publics (ONU) et privés (WWF, CDP...) dont le but est de piloter une «action climatique ambitieuse» dont les objectifs sont fondés sur la science.
2) Première coalition d'investisseurs mondiaux à l'origine d'engagements collaboratifs avec les plus grands émetteurs de gaz à effet de serre du monde afin de les inciter à réduire leurs émissions.