*Brussels, the 2nd of March 2020*

# *CBBA-Europe answer to the EIOPA's Consultation Paper on the proposed approaches and considerations for EIOPA's Technical Advice, Implementing and Regulatory Technical Standards under Regulation (EU) 2019/1238 on a Pan-European Personal Pension Product (PEPP)*

## ***Preamble about the Cross Border Benefits Alliance-Europe (CBBA-Europe)***

The Cross-Border Benefits Alliance-Europe (CBBA-Europe), is a Brussels based advocacy organization (Belgian AISBL) promoting the creation of cross border and pan-European social benefits in the European Economic Area (EEA), including pensions (occupational and individual), healthcare insurance, unemployment benefits, long term care insurance, etc.

Indeed, CBBA-Europe considers the current excessive fragmentation of national social systems as detrimental to the creation of a European common market based on economies of scale and on the removal of costly and burdensome barriers in particular for citizens; but also detrimental to free movement of services, capitals and persons; and to the potential accumulation of huge capitals to be invested in the European economy, in accordance with the Capital Markets Union (CMU) to foster much needed growth and employment.

More generally, CBBA-Europe wishes the European Union to become a more interconnected economic and social area, where both economic competitiveness, with more efficiency in delivering benefits, and the protection of social rights assured to companies and citizens.

As for its structure, CBBA-Europe is a transversal Alliance made up of stakeholders with different backgrounds, including multinational companies, trade unions, asset managers, pension funds, insurance companies, consumers' organizations, national and international trade associations. Just created in October 2017, CBBA-Europe already has twenty members, and is still rapidly growing.

CBBA-Europe also relies on a Scientific Council made up of well-known experts and professors from the most prestigious Universities of Europe. The Scientific Council provides content for the half-yearly CBBA-Europe Review, which is available on the website of the Association.

Finally, in addition to its activities of monitoring and publication of position papers, CBBA-Europe organizes several public meetings throughout Europe with national and European decision makers and stakeholders.

For more information about CBBA-Europe, please visit our website: www.cbba-europe.eu



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## Executive summary

The EIOPA's consultation mainly focused on several issues including the format of the information documents; the way how to present the pension product's performances (including the past performances and future expected pension projections); on how to measure the risks; the PEPP supervision between home state and host state authorities; the scope of the cost-cap for the basic PEPP (whether to include or exempt the capital guarantees; and the cost of advice and/or distribution); the best possible approaches to risk-mitigation techniques; and the possible use of technology such as robo-advice.

In its answer, the Cross Border Benefits Alliance-Europe (CBBA-Europe) particularly stressed the following points:

1) Information documents should be made as easier as possible for users. Mock-ups seem to represent a good way to pursue such goal. PRIIPs and PEPPs should be considered as different products, considering the long-time horizon of the latters. Therefore, information documents for PEPPs should differ from PRIIPs: PEPPs' risk and performance of different investment strategies should reflect the long-time horizon of these products;

2) A commitment of covering inflation might result really challenging;

3) With regards to the long-term risk-free rate, CBBA-Europe does not agree with the EIOPA's proposal to use the Ultimate Forward Rate (UFR) as performance benchmark. Indeed, considering again the very low, if not negative interest rates and the general returns of the financial markets, a 3,75% rate (which is the current UFR) appears to be unrealistic, if not impossible;

4) As for the supervision, CBBA-Europe strongly recommends to EIOPA to use all its powers in order to avoid problems with National Competent Authorities (NCAs) from home state and host states that might undermine or limit the activities of PEPPs across the EU;

5) The 1% cost cap of basic PEPP should definitely exclude both the costs of capital guarantees and costs of advice (here also including the necessary activity to distribute and sell it to potential clients). A 1% cost cap, even if nice on paper for consumers, is simply unrealistic and would risk discouraging potential providers from creating and distributing PEPPs;

6) With regards to the question on risk-mitigation techniques, a basic PEPP offering guarantees other than the insurance based one, should offer to savers a 95% rate of probability (or even a bit lower rate) of recouping their capital. In such a way, the two basic PEPP would really differ: the insured based PEPP would guarantee a 100% of capital; the other PEPP would offer a lower probability of recouping the entire capital, but more chances to get higher investment returns. It will be then up to potential consumers to make their choice of the basic PEPP on the basis of their needs and risk tolerance;



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7) With regards to digital information (robo advice) and on-line distribution, they sound very charming and innovative, but they would not work in the initial phase of the launch of the PEPP. In fact, on-line sales, without any (human) personalized advice, do not seem to be really realistic at the moment: average European consumers do not seem ready to buy pension products online, as they would buy books, apps, or trips, instead;

8) As a general final remark, CBBA-Europe reminds that the very first actors who will have to deal with the PEPP are the potential providers. Providers are for-profit market entities and hence very careful in balancing potential costs and gains before launching new products on the market. A perfect product for consumers on paper, but not realistically attractive for providers, will be never findable on the market, and so not beneficial for consumers.

## *Answers to the EIOPA's consultation*

**Question 1. Do you have any comments on the presentation of the information documents? Do you find the preliminary, illustrative examples of the mock-up PEPP KID and PEPP Benefit Statements are translating well the outlined objectives?**

CBBA-Europe stresses the need of making the information documents as easier as possible for users. Mock-ups seem to represent a good way to pursue such goal.

PRIIPs and PEPPs should be considered as different products, considering the long-time horizon of the latters.
In other words, information documents for PEPPs should differ from PRIIPs: PEPPs' risk and performance of different investment strategies should reflect the long-time horizon of these products.

CBBA-Europe welcomes the layering approach for digital information proposed by EIOPA in articles xa and xb.
Such layered information should draw attention to key warnings, and it should use visual icons, pop-ups, drop-down menus and tick-the box approaches.
Mobile devices should obviously represent a channel of transmission of such information, keeping in mind that young people make a large use of them.

A consumer testing on the mock-ups is welcome.

There are some concerns about drawing a solid BS mock-up when a PEPP operates across several Countries: when several sub-accounts are created at a national level, different taxation regimes, contribution levels and different costs resulting from providers in partnership, might lead to a difficult delivery of the information.



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Moreover, PEPP KID should show and keep separated both the costs of distribution and the costs of advice.

Finally, considering that a great part of costs of advice will be generated before a saver/client will buy a PEPP product, those costs should be classified as "one-off costs".

**Question 2. Do you agree to approach the areas of risk/rewards, performance and risk mitigation for the PEPP in a holistic manner?**

Yes, we agree with a holistic approach to risk/rewards, performance and risk mitigation.

We also agree with adding a favorable scenario to the best estimate and unfavorable scenario.

Assumptions based on EIOPA's stochastics are fine, but the methodology is not really disclosed on the paper: neither with reference to the stochastic calculations, nor with reference to the reduction in wealth.

As for the past performance, PEPP savers should be clearly reminded that personal pension products are long-term investors; that short-term volatilities of markets would not explain the overall nature of their product; and that, in the lack of that awareness on the long-term nature of PEPPs, savers might draw wrong conclusions (either too optimistic or too pessimistic).
For this reason, only a 5 and/or 10 year past performance indication should be shown to them: 1 and 3 year past performance should be skipped.

**Question 3. Do you agree to measure the risk inherent in PEPP as the dispersion of pension outcomes and to link it to objective of reaching at least the long-term risk-free interest rate?**

Granted that the PEPP Regulation, when referring to guarantees of Basic PEPP on the capital, does not impose an inflation coverage on the top of this, it should be reminded that inflation fluctuates, and it cannot be known when the guarantee is issued.
Moreover, in the present environment of low interest rates where even the maximum guaranteed interest rates set at national level are lower than the EU countries' inflation, such a commitment of covering inflation might result really challenging.

With regards to the link to the long-term risk-free interest rate to measure the risk inherent in PEPP as the dispersion of pension outcomes, CBBA-Europe does not agree with the EIOPA's proposal to use the Ultimate Forward Rate (UFR) as performance benchmark.
Indeed, considering again the very low, if not negative interest rates and the general returns of the financial markets, a 3,75% rate (which is the current UFR) appears to be unrealistic, if not impossible.

Probably, inflation would be the most suitable performance benchmark.



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**Question 4. To ensure consistency in the application and comparability of the information on past performance, performance scenarios, pension projections, summary risk indicator and to assess the effectiveness of the applied risk-mitigation techniques - do you agree for EIOPA to set the key assumptions and inputs used for the necessary stochastic modelling?**

Yes, we agree: EIOPA should set out key assumptions and inputs used for necessary stochastic modelling.

**Question 5. Do you agree that PEPP's product supervision requires one set of relevant information to carry out the duties of home and host supervisors as well as of EIOPA?**

Yes, we agree: the PEPP's product supervision requires one set of relevant information to carry out the duties of home and host supervisors as well as of EIOPA, also in order to assure a common application across the EU member states.

CBBA-Europe strongly recommends to EIOPA to use all its powers in order to avoid problems with NCAs that might undermine or limit the activities of PEPPs across the EU. Keeping in mind the (still) existing obstacles raised by their NCAs often encountered by cross-border IORPs in some member states, CBBA-Europe wishes that the same aforementioned dynamics will not occur for PEPPs as well.

**Question 6. Do you agree with the 'all inclusive' approach to the Basic PEPP's cost cap? Do you agree that the capital guarantee is a distinct feature, which costs should not be included?**

CBBA-Europe stresses that the concept of "all inclusive" approach, even if it sounds good on the paper, cannot exist in reality.

Indeed, a general fee-cap of 1% for the basic PEPP cannot be maintained in all the aspects of this product: the most evident proof of this is that the capital guarantee is considered by EIOPA as a distinct feature, for which the cost should not be included. All that, despite the fact that a capital guaranteed basic PEPP is clearly provided for by the PEPP Regulation.

Having said that, CBBA-Europe agrees with the EIOPA that the costs of guarantees should be not included in the said cost cap.

For sure, such costs should be well defined and their definition should be the same for all the EU member states. As stated in question 3, granted that inflation will be not (and probably could be not) covered by the said guarantee, a clear information should be given to savers about this matter.



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Moreover, CBBA-Europe considers that costs of advice, and in particular all the legal duties to be fulfilled by providers and/or distributors to potential savers should be not included in the cost-cap.

This opinion is based on the following three reasonings:

1) Even if "mandatory", the cost of advice might be excluded from the Basic PEPP cost cap in the same way as EIOPA considers to exempt the costs of the capital guarantee. Indeed, even if both the advice and capital guarantee are mandatorily provided by the Regulation for the Basic PEPP, no legal obstacles would prevent EIOPA from excluding such advice from the cost-cap (as stated before, the concept of "all inclusive" approach could be not really applicable in reality).

2) The aforementioned duties for the advice provided by the PEPP Regulation in its article 34 are objectively numerous and expensive for providers and/or distributors; and many of them are required to be delivered to potential savers *before the signature of the PEPP contract,* which means that providers and/or distributors would not even have the security that potential savers will then actually sign the contract after receiving the said advice.
   Therefore, a 1% cost cap for Basic PEPP, even if attractive, is objectively low.
   In particular, it should be reminded that:

   *A)* PEPPs are purely voluntary pension products, and so the promotion of those will represent a necessary (costly) action to be carried out by their providers and/or distributors, bearing in mind that those costs could be not recovered, as these campaigns could also (and obviously) fail.

   *B)* As commercial products, and unlike social security or occupational pensions, they should legitimately generate some economic gains for their promoters: otherwise, none would promote them, and national pension products, which do not have any fee caps on advice or distribution, will keep being the preferred sold products. Moreover, it is also well-known that some pension providers -even if they are sometimes big companies- do not even promote their pension products on their own, but they mainly (if not exclusively) rely on brokers/distributors' networks. What would be the interest of those brokers/distributors' networks to offer PEPPs if their earnings' margin be lower than national pension products?

3) According to CBBA-Europe, "robo advice" sounds very charming and innovative but it would not work in the initial phase of the launch of the PEPP. Sales online, without any (human) personalized advice, do not seem to be realistic at the moment: average European consumers do not seem ready to buy pension products online, as they would buy books, apps, or trips, instead. Therefore, the traditional face-to-face personal advice will be necessary in the next years.
   After all, the EU and their member states are facing the opposite (scaring) challenge: that too many Europeans -especially the young generations- are not seriously taking into consideration their future pension income, and so stronger awareness campaigns should be made in order to convince them to save in private pension products.



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(for more details, please refer to question number 10).

CBBA-Europe is also aware the 1% fee-cap requirement should be somehow complied with. The overall cost of the advice might be maintained out of the fee-cap at least for some years.

This approach would have the merit of offering the time to PEPP providers to create, commercialize and distribute PEPPs in Europe and to create a real market of such products. After an accurate survey on the market development of PEPPs, EIOPA could still periodically review the said exemption on a later stage, as provided by article 45 paragraph 4 of the PEPP Regulation.

If instead EIOPA will decide to not exclude the costs of advice from the Basic PEPP fee cap, it could alternatively separate the distribution costs by identifying an "entry fee", excluded from the fee cap, from the other subsequent regular advice falling under the 1% cap.
CBBA-Europe deems that this option would be the fairest one, but also the most impractical considering the difficulties to establish a real cost linked to promotion and distribution, considering the national differences, and the fact that an initial fee might result very expensive to new potential clients as opposed to a cost spread over some years.
In conclusion, if the market appetite for providers will be not created, consumers will not get advantage either. Therefore, an initial less favourable framework for consumers might be necessary to convince potential PEPP providers to set it up and sell it (this concept will be deepened in question 11).

In any case, costs of guarantees, distribution and/or advice will require the maximum transparent disclosure for consumers, so that clarity and comparison among different products will be possible for potential clients.
Here of course the traditional interplay of competition among providers will then have a virtuous role in reducing prices over the time (this concept will be deepened in question 11 as well).

**Question 7. Which criteria should be added to foster the application and development of superior risk-mitigation techniques? Which research and learnings should EIOPA consider in its further work?**

According to CBBA-Europe, principle-based risk mitigation techniques seem to represent the most suitable criterion, as opposed to quantitative requirements on asset allocation or other limitations.

Considering the evolution of the financial markets, CBBA-Europe thinks that the alternative Basic PEPP providing for a recovery of capital in the phase of decumulation might somehow differ from the insurance based one also with regards to the level of probability of recouping the said capital.
A Basic PEPP offering a 99% probability of recouping the capital would not make much sense for consumers who might instead choose an (insured based) 100% capital guaranteed PEPP.



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A Basic PEPP ensuring a 95% probability, or even a bit lower level, could offer them the perspective of accruing higher returns from their investments; at the same time, such a rate should be still sufficient to assure savers on the limited risks for their accumulated capital.

The preference of a 95% or slightly lower probability takes as reference some studies from OECD and the Bocconi University.

The Bocconi study from 2017 indicated a 99% probability recovery, but by taking into consideration a period between January 1988 and November 2017. New updated studies, which skipped a period of higher interest rates and financial bubbles included in the Bocconi study, consider that lower levels of probability recovery would be more appropriate.
OECD sources indicate a more likely 95% probability, instead.

**Question 8. Do you have any comments on the draft Impact Assessment? Do you have any evidence which could further enrich the draft Impact Assessment?**

EIOPA should seriously take into consideration the potential challenges deriving from the 1% cost-cap with particular regards to the costs of advice and distribution.

According to the feedbacks received from the CBBA members, even the insurance companies stressed that the exemption of costs of advice (and/or distribution) from the fee-cap will represent the most important criterion to decide whether or not to set up and commercialize PEPPs.

**Question 9. Do you have any other general comments to the proposed approaches?**

No.

**Question 10. Do you have any views on the opportunities for PEPP in a digital environment, for example regarding digital information provision and online distribution?**

As indicated in the question 6, according to CBBA-Europe, “robo advice” and on-line distribution sound very charming and innovative but they would not work in the initial phase of the launch of the PEPP.

In fact, on-line sales, without any (human) personalized advice, do not seem to be really realistic at the moment: average European consumers do not seem ready to buy pension products online, as they would buy books, apps, or trips, instead.

After all, the EU and their member states are facing the opposite (scaring) challenge: that too many Europeans -especially the young generations- are not seriously taking into consideration their future pension income, and so stronger awareness campaigns should be done in order to convince them to save in some other (supplementary and voluntary) pension products: the simple assumption that robo-advice or online distribution be sufficient to overcome such an epocal challenge seems quite naïve.



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Therefore, the traditional face-to-face personal advice will be necessary in the next years. Such an approach will imply costs and hence the exclusion of those from the fee-cap should be seriously taken again into consideration.

On the medium-long term, PEPPs might be sold on-line, especially if tax incentives will be granted and savers will be aware of the need to get an additional pension product on the top of the 1st pillar.
But this process will take years. Therefore, the current priority of policy-makers should be to allow the new Pan-European Personal Pension Product to take off under the current circumstances -and hence not relying on online distribution- in order to gain a position aside National Personal Pensions.

**Additional remarks**

CBBA-Europe, as an advocacy organization in charge of promoting cross-border and pan-European social protection benefits, is by definition a very strong supporter of the PEPP initiative.

The PEPP is the first Pan-European Pension Product directly created by the European Union, and it proves a real political will of the EU to promote cross-border pensions.

This initiative is coming in a very critical moment, because cross-border activities of occupational pensions (IORPs) are not really taking off since the introduction of the first IORP directive in 2003. Not even the most recent IORP 2 directive did bring significant legal improvements to encourage cross-border activities of pension funds.
For sure, the regulatory framework of the IORP directives, outcome of poor political compromises, resulted to be far from being the most suitable for cross-border and pan-European occupational pensions.
Moreover, the implementation of the new IORP directive by some member states is even hampering, if not making impossible, cross-border activities.
In some cases, the EU institutions have not been reactive enough to limit or stop some national protectionist behaviors, which are still trying to discourage companies or market operators to set up their cross-border IORPs.

Cross-border pensions are in danger in Europe: in such a scenario, several companies or market operators, even if in principle really attracted to cross-border activities, are not daring to start them because of the aforementioned challenges; and some entities that had initiated cross-border activities are even stopping them.
In the light of this, market operators and stakeholders are wondering whether there is still a real political interest and support from the EU to cross-border pensions in Europe (being them IORPs or PEPPs).
For CBBA-Europe it is fundamental for the PEPP to work in order to show the added value of cross-border and pan-European pensions.

It should be very clear to EIOPA and EU Institutions that cross-border pensions will not take off just because they are allowed on paper.



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Despite of the real existence of market appetite for such products, if their regulation will be not appropriate, they will just not take off.
Some stakeholders and members of CBBA-Europe already expressed strong concerns and pessimism about the future success of the PEPP: political compromises on the PEPP Regulation made without a real understanding of the market -such as the 1% fee-cap, or

the last-minute insertion of the mandatory advice/personal recommendation for the Basic PEPP- might represent the reason for the failure of this initiative, unless some remedies will be taken.

As stated before, CBBA-Europe reminds that the very first actors who will have to deal with the PEPP are the potential providers. Unless the EU itself will decide, one day, to create, promote and distribute PEPP products through its own budget, it will be fundamental not to discourage the said providers.
We have to remind that providers are for-profit market entities and hence very careful in balancing potential costs and gains before launching new products on the market.
A perfect product for consumers on paper, but not realistically attractive for providers, will be never findable on the market, and so not beneficial for consumers.

According to the main economic principles on which the EU internal market was created, costs of PEPPs should be reduced by the natural interplay of competition, considering also that a Pan-European Pension Product fully portable and sellable by foreigner providers across the EU member states, will have the unique chance to compete with national pension products, and hence to result more competitive precisely in those Countries where local products are at the moment too expensive.
An exogenous determination of cost caps for the Basic PEPP, decided by the EU legislator, was an intrinsic error and against the spirit of the EU economic foundations.

In conclusion, according to CBBA-Europe, the success (or not) of the PEPP will affect the overall future of cross-border private pensions in Europe. The possible consequences of such an initiative might determine the definitive end of cross-border pensions in Europe.
We really hope that EIOPA, aware of such responsibility, will take this message into serious consideration.

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